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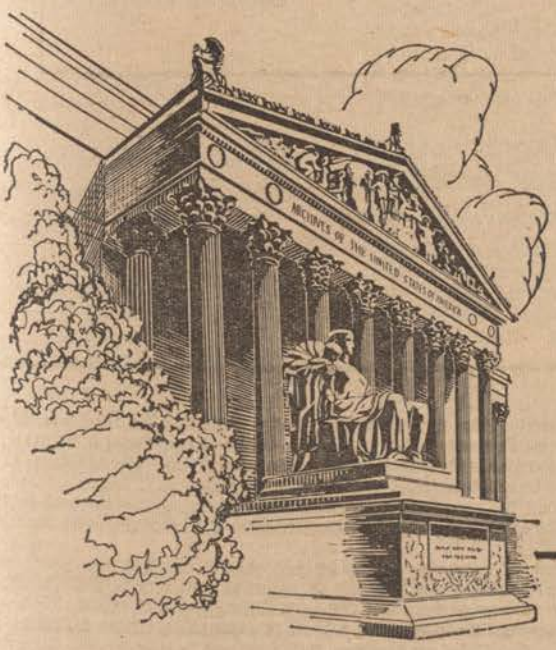
NOTE: This issue contains an amendment adopted by the Administrative Committee of the Federal Register. See page 5203.



Agencies in this issue—

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FEDERAL REGISTER

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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, 1971, and specifies how they are affected.

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Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

PART 16—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

Summary Statements and Highlights Listing

The purpose of this amendment is to require that a brief summary statement written in layman's language and describing the contents, accompany each document (with certain stated exceptions) that is submitted for publication in the FEDERAL REGISTER. Selected summary statements will be used in a "Highlights" listing which will appear in a prominent place in the FEDERAL REGISTER.

This amendment is based on a notice of proposed rule making published in the FEDERAL REGISTER on December 1, 1970 (35 F.R. 18297). The vast majority of the comments received in response to the notice enthusiastically supported the proposal. In addition to indicating their support, most of the Federal agencies which responded stated that the additional requirement would not place any undue burden on their regulatory programs. Several agencies raised technical questions that will be discussed further below.

MORE THAN "HIGHLIGHTS" NEEDED

A large percentage of the non-governmental comments, as well as several of the comments from Federal agencies, recommended that the Administrative Committee should go much further than just requiring "caption" type statements for use in the highlights listing.

The gist of most of these comments was that many of the documents published in the FEDERAL REGISTER are as difficult for the legal or technical expert to comprehend as they are for the average layman. From the number of such comments received, it is apparent that President Nixon on March 12, 1970, expressed a widely held viewpoint in his response to a remark by his Special Assistant for Consumer Affairs, Mrs. Virginia Knauer. Mrs. Knauer observed that the FEDERAL REGISTER "is absolutely incomprehensible to the average consumer." The President commented "Or to anyone else."

The recommendation made most often by the commenters was that the Administrative Committee require that each document must contain a clear, concise explanation of the substance of the document and the major issues involved. Adoption of such a requirement at this time would be beyond the scope of the Administrative Committee's proposal. However, because of the large number of such comments and recommendations, the Administrative Committee is convinced that further efforts to improve the FEDERAL REGISTER necessitate actions to improve the individual documents submitted for publication therein.

In this connection, it is interesting to note that the legislative history of the provision that became section 4(a)(3) of the Administrative Procedure Act (now 5 U.S.C. 553) indicates that Congress intended that each proposed rulemaking document would clearly state the issues involved. For example, in an explanation of an earlier draft of the provision that became section 4(a)(3) the Senate Committee report states "Agency notice must be sufficient to fairly apprise interested parties of the issues involved, so that they may present responsive data or argument relating thereto." (Legislative History of the Administrative Procedure Act, 79th Congress, 2d Session, Senate Document No. 248, p. 200. See also similar explanations at pp. 18, 258 and 358.)

Therefore, while no additional requirement is being included in this rulemaking action, the Administrative Committee urges each Federal agency submitting documents for publication in the FEDERAL REGISTER to review its rulemaking program to insure that each document is written in the clearest possible manner. Further, the Committee recommends that each document contain an adequate preamble explaining the significance of the action taken or being proposed. Whenever the length of the preamble warrants, the first paragraph should be a summary of the substance of the document and the major issues involved.

As several commenters pointed out, the existence of an adequate preamble explanation would in the long run save each Federal agency much time and effort in its overall rulemaking program and could, in some cases, avoid costly litigation. Further, as many commenters pointed out, the existence of a summary paragraph in each document clearly written in layman's terms would facilitate the publication of a separate consumer oriented publication of the type recommended by the Administrative Conference of the United States in 1969.

The Administrative Committee points out that under 1 CFR 3.11 the Office of the Federal Register has for many years conducted training programs in regulatory writing and procedures for the Federal agencies. In its future programs the Office will place more emphasis on the problems and proposed solutions, discussed above.

FEDERAL REGISTER users are invited to write to the Office of the Federal Register whenever they feel that a published document does not contain a clear explanatory statement. Where it appears to be warranted, the Office of the Federal Register will then work with the agency involved to improve the quality of future documents. Should it prove to be necessary, the Administrative Committee will of course consider further rulemaking action.

SPECIFIC COMMENTS ON "HIGHLIGHTS" PROPOSAL

A number of commenters (including many which were enthusiastically favorable) raised specific questions as to the proposal's effect, if adopted, on the rest of the FEDERAL REGISTER.

Several of the questions raised are easily answered. For example, there was no intent to change the basic format of the Contents pages of the daily FEDERAL REGISTER. The Table of Contents will be continued and the full text of every document will be printed as in the past.

The other questions raised and the Administrative Committee's disposition thereof are as follows:

Legal effect of highlights listing. A number of comments expressed concern that the wording of a highlight item, or the absence of a highlights listing could have some effect on the legality of a rulemaking document. Several commenters recommended that the Committee should make it clear by some sort of disclaimer that each document would stand on its own and would not be legally affected by the existence, absence, or wording of a highlights listing. The Administrative Committee concurs and appropriate language has been included in the final rule. Furthermore, a note to the same effect will be included in the daily FEDERAL REGISTER.

Editorial control. A number of commenters expressed concern that the highlights items would be no more clear or usable for the average layman than past headings if they were written by the

agency promulgating the document. As stated in the notice, the Administrative Committee believes that the initial wording of each highlights-type caption should be drafted by the agency that is most familiar with the document. The Office of the Federal Register will, however, retain final editorial control over the exact wording of each highlight item and also will finally decide what items are to be included in the highlights listing. The Office of the Federal Register will of course try to work out with the agency involved any disagreements and will resolve any differences with the public interest foremost in mind. In view of the almost unanimous endorsement of this proposal by the Federal agencies that responded and the fact that most agencies offered their complete cooperation, the Administrative Committee does not anticipate any serious problems in this regard.

Exceptions from proposed requirement. A number of the Federal agencies responding requested broader exceptions than those proposed. At least one agency recommended that submission of a highlights caption be left to the discretion of each agency. On the other hand a number of private commenters (particularly those representing consumer groups) recommended the elimination of any exceptions. Several of the latter expressed concern that by opening the door to individual agency exceptions the Administrative Committee was establishing a potential basis for rendering the requirement ineffective. The Administrative Committee believes that there are identifiable classes of documents that should routinely be exempted from this requirement so as not to impose unnecessary paperwork on Federal agencies. The rule, as adopted, limits the general exceptions and leaves further exceptions to the discretion of the Director of the Federal Register. The Committee also recognizes that any regulation can be seriously weakened by exemptions handled on an individual basis. To avoid this the regulation as adopted requires the Director of the Federal Register to publish monthly in the FEDERAL REGISTER a list of any exceptions granted, identifying the agency involved and the nature of the documents excepted.

Wording of highlight item. Several commenters recommended that each highlight item include identification of the nature of the action involved, the responsible Federal agency and, where applicable, significant dates, such as closing date for comments, hearing date, etc. It is planned to include all this information and the final rule is so stated.

Mechanics of highlights requirement. Several Federal agencies objected to the proposed requirement that each highlight item be included on a separate sheet of paper. This requirement is necessary to minimize the additional workload on the FEDERAL REGISTER staff. It should not impose any significant additional burden on each Federal agency as most agencies indicated.

As several commenters noted, the separate sheet of paper will have to be clearly identified so that it can be associated with the proper document if it becomes separated in processing. The additional workload involved can be reduced whenever the caption for the basic document is for the most part usable as a highlights item.

In consideration of the foregoing, a new § 16.25 is added to Title 1 of the Code of Federal Regulations reading as follows:

SUMMARY STATEMENTS

§ 16.25 Highlights; submission of summary statements.

(a) Except as provided in paragraph (b) of this section, each agency which submits a document for publication in the FEDERAL REGISTER shall furnish with the document two copies of a descriptive catchword or phrase and a brief statement that: (1) Names the agency issuing the document; (2) summarizes the principal subject of the document; and (3) states any important dates, such as closing date for comments, hearing date, or effective date. While this requirement is in addition to the heading requirements in Parts 17 and 18 of this chapter the language of the summary statement submitted under this section and the headings may be the same whenever appropriate. The following are examples of the types of statements intended by this requirement:

DETERGENTS—proposed FTC labeling and advertising requirements for synthetic detergents—comment period ends 4–19–71; public hearing 4–26–71.

COAL MINE SAFETY—Interior Department procedures to assess civil penalties for violations—effective 1–16–71.

(b) A summary statement need not be submitted with a document that is making nonsubstantive changes which are corrective or editorial in nature. Additional exceptions to this requirement may be granted by the Director of the Federal Register. The Director of the Federal Register will publish monthly in the FEDERAL REGISTER a list of classes of documents exempted under this section during the preceding month. The list will state the agency involved and the document or class of documents.

(c) Selected summary statements submitted under this section will be included in a highlights listing which will be printed in a prominent place in the daily FEDERAL REGISTER. The Director of the Federal Register will exercise final editorial control over the wording of each summary statement and will make the final determination as to its inclusion in the highlights listing.

(d) Neither failure to submit a summary statement under this section, nor failure to print such a statement in the highlights listing in the FEDERAL REGISTER shall affect the legal status of a document printed in the FEDERAL REGISTER. Highlights listings printed in the FEDERAL REGISTER are intended solely to serve as an aid to readers and the wording of a listed item is not intended to interpret the language of the document. FEDERAL REGISTER readers should continue to use the Table of Contents to identify the documents published in each issue and should refer to the text of a document to determine its legal effect.

(44 U.S.C. 1506. Sec. 6, E.O. 10530, 19 F.R. 2709, 3 CFR, 1954–1958 Comp.)

Effective date. This amendment shall become effective for documents submitted to the Office of the Federal Register after April 27, 1971.

ADMINISTRATIVE COMMITEE OF THE FEDERAL REGISTER,

JAMES B. RHOADS,
Archivist of the United States, Chairman.

A. N. SPENCE,
The Public Printer, Member.

MARY O. EASTWOOD,
Representative of the Attorney General, Member.

Approved:

JOHN N. MITCHELL,
Attorney General.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–3869 Filed 3–17–71;10:44 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to reflect the current title of the Assistant Secretary for Systems Development and Technology in the Schedule C listings of his Confidential Secretary and Special Assistant. Effective on publication in the FEDERAL REGISTER (3–18–71), subparagraphs (9) and (20) of paragraph (a) of § 213.3394 are amended as set out below.

§ 213.3394 **Department of Transportation.**

(a) *Office of the Secretary.* * * *

(9) One Confidential Secretary to the Assistant Secretary for Systems Development and Technology.

* * * * *

(20) One Special Assistant to the Assistant Secretary for Systems Development and Technology.

* * * * *

(5 U.S.C. 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.71–3762 Filed 3–17–71;8:48 am]

Chapter XIV—Federal Labor Relations Council and Federal Service Impasses Panel

SUBCHAPTER B—FEDERAL LABOR RELATIONS COUNCIL

PART 2411—REVIEW FUNCTIONS OF THE COUNCIL

Subpart B—Procedures for Council Review

TIME LIMITS FOR FILING PAPERS

During public hearings held October 7–9, 1970, as announced at 35 F.R. 14279, some labor organizations recommended that the Council take action to insure that negotiability issues can be taken quickly to agency heads for prompt determination. On the basis of those recommendations and a subsequent analysis of the Council's experience to date in processing negotiability appeals, paragraph (a) of § 2411.14 is revised to read as follows:

§ 2411.14 **Time limits for filing papers.**

(a) The time limit for filing a petition for review is 20 days from the date the decision or award was served on the party seeking review. However, review may be requested by a labor organization without a prior decision on a negotiability issue subject to section 11(c)(4) of the Order, if the agency head or his designee has not made a decision—

(1) Within 45 days after a party to the negotiations initiates referral of the issue for decision, in writing, through prescribed agency channels; or

(2) Within 15 days after receipt by the agency head or his designee of a written request for such decision following referral through prescribed agency channels, or following direct submission if no agency channels are prescribed.

* * * * *

This revision shall be effective 30 days after its publication in the FEDERAL REGISTER.

For the Council.

ROBERT E. HAMPTON,
Chairman.

[FR Doc.71–3785 Filed 3–17–71;8:50 am]

Title 7—AGRICULTURE

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

SUBCHAPTER C—SPECIAL PROGRAMS

PART 760—INDEMNITY PAYMENT PROGRAMS

Subpart—Dairy Indemnity Program

The regulations issued by the Department of Agriculture which set forth the terms and conditions under which indemnity payments will be made to eligible dairy farmers whose milk is removed from the market because of pesticide residue content (33 F.R. 2497), as amended (33 F.R. 17341), are hereby revised to read as follows in order to extend the effective date of the indemnity payment program and to incorporate provisions for making indemnity payments to manufacturers of dairy products who have been directed to remove their dairy products from commercial markets because of pesticide residues.

PROGRAM OPERATIONS

Sec.
760.1 Administration.
760.2 Definitions.

PAYMENTS TO DAIRY FARMERS

760.3 Indemnity payment.
760.4 Normal marketings.
760.5 Fair market value.
760.6 Information to be furnished.
760.7 Other requirements for affected farmers.
760.8 Application for payment.

PAYMENTS TO MANUFACTURERS

760.11 Payments to manufacturers of dairy products.
760.12 Application for payment.
760.13 Information to be furnished by manufacturer.
760.14 Other requirements for affected manufacturers.

GENERAL PROVISIONS

760.15 Limitation of authority.
760.16 Estates and trusts; minors.
760.17 Appeals.
760.18 Setoffs.
760.19 Overdisbursement.
760.20 Death, incompetency or disappearance.
760.21 Records and inspection thereof.
760.22 Assignment.
760.23 Instructions and forms.

AUTHORITY: The provisions of this Part 760 issued pursuant to Public Law 90–484 (82 Stat. 750), as amended, Public Law 91–524 (84 Stat. 1361).

PROGRAM OPERATIONS

§ 760.1 **Administration.**

This indemnity payment program will be carried out by ASCS under the direction and supervision of the Deputy Administrator. In the field, the program will be administered by the State and County Committees.

§ 760.2 **Definitions.**

For purposes of this subpart, the following terms shall have the meanings specified:

(a) "Secretary" means the Secretary of Agricultural of the United States or any officer or employee of the U.S. Department of Agricultural to whom he has delegated, or to whom he may hereafter delegate, authority to act in his stead.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(c) "Deputy Administrator" means the Deputy Administrator, State and County Operations, ASCS.

(d) "State Committee" means the Agricultural Stabilization and Conservation State Committee.

(e) "County Committee" means the Agricultural Stabilization and Conservation County Committee.

(f) "Pesticide" means an economic poison which was registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k), and recommended for use either (1) in Agriculture Handbook No. 313 or 331 "Suggested Guide for the Use of Insecticides to Control Insects Affecting Crops, Livestock, Households, Stored Products, and Forest Products," or any revision of such handbooks published by the U.S. Department of Agriculture, or (2) by any other agency of the Federal Government.

(g) "Public agency" means any Federal, State, or local public regulatory agency.

(h) "Affected farmer" means a person who produces whole milk which is removed from the commercial market any time from January 1, 1964, to June 30, 1973, pursuant to the direction of a public agency or a milk handler because of the detection of pesticide residue in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(i) "Affected manufacturer" means a person who manufactures dairy products which are removed from the commercial market any time from November 30, 1970, to June 30, 1973, pursuant to the

direction of a public agency because of the detection of pesticide residue in such dairy products by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(j) "Milk handler" means the marketing agency to or through which the affected dairy farmer marketed his whole milk at the time he was directed to remove his whole milk from the commercial market.

(k) "Person" means an individual, partnership, association, corporation, trust, estate or other legal entity.

(l) "Application period" means any period beginning not earlier than January 1, 1964, and ending not later than June 30, 1973, during which an affected farmer's whole milk is removed from the commercial market pursuant to direction of a public agency or milk handler for the reason specified in paragraph (h) of this section and for which application for payment is made.

(m) "Pay period" means (1) in the case of an affected farmer who markets his whole milk through a milk handler, the period used by the milk handler in settling with the affected farmer for his whole milk, usually biweekly or monthly, or (2) in the case of an affected farmer whose commercial market consists of direct retail sales to consumers, a calendar month.

(n) "Whole milk" means milk as it is produced by cows.

(o) "Commercial market" means (1) the market to which the affected farmer normally delivers his whole milk and from which it was removed because of detection therein of pesticide residue, or (2) the market to which the affected manufacturer normally delivers his dairy products and from which they were removed because of detection therein of pesticide residue.

(p) "Removed from the commercial market" means (1) produced and destroyed or fed to livestock, (2) produced and delivered to a handler who destroyed it or disposed of it as salvage (such as separating whole milk, destroying the fat, and drying the skim milk), or (3) produced and otherwise diverted to other than the commercial market.

(q) "Payment subject to refund" means a payment which is made by a milk handler to an affected farmer, and which such farmer is obligated to refund to the milk handler.

PAYMENT TO DAIRY FARMERS

§ 760.3 Indemnity payment.

An indemnity payment will be made to an affected farmer who is determined by the County Committee to be in compliance with all the terms and conditions of this subpart in the amount of the fair-market value of his normal marketings for the application period, as determined in accordance with §§ 760.4 and 760.5, less (a) any amount he received for whole milk marketed during the application period, and (b) any payment not subject to refund which he received from a milk handler with respect to whole milk removed from the commercial market during the application period.

§ 760.4 Normal marketings.

(a) The County Committee shall determine the affected farmer's normal marketings which, for the purposes of this subpart, shall be the sum of the quantities of whole milk which such farmer would have sold in the commercial market in each of the pay periods in the application period but for the removal of his whole milk from the commercial market because of the detection of pesticide residue.

(b) Determination of normal marketings for each pay period shall be based upon: (1) If the affected farmer or another person marketed whole milk from the farm during the period in the previous year equivalent to the pay period, the marketings of whole milk from the farm during such equivalent period, or (2) if the affected farmer or another person did not market whole milk from the farm during the period in the previous year equivalent to the pay period, the average of the affected farmer's marketings of whole milk from the farm per pay period during the 3 months immediately prior to removal of his whole milk from the commercial market.

(c) The base for normal marketings determined (1) under paragraph (b)(1) of this section shall be adjusted to reflect any change in the rate of the affected farmer's whole milk production from the production of the previous year due to factors such as changes in herd size both before and after removal of whole milk from the commercial market, and changes in management practices before such removal, or (2) under paragraph (b)(2) of this section shall be adjusted to reflect normal changes in the affected farmer's whole milk production during the pay period due to seasonal factors affecting production and changes in herd size.

(d) If only a portion of a pay period falls within the application period, normal marketings for such pay period shall be reduced so that they represent only that part of such pay period which is within the application period.

§ 760.5 Fair market value.

(a) The County Committee shall determine the fair market value of the affected farmer's normal marketings, which, for the purposes of this subpart, shall be the sum of the net proceeds such farmer would have received for his normal marketings in each of the pay periods in the application period.

(b) The County Committee shall determine the net proceeds the affected farmer would have received in each of the pay periods in the application period (1) in the case of an affected farmer who markets his whole milk through a milk handler, by multiplying the affected farmer's normal marketings for each such pay period by the average net price per hundredweight of whole milk paid during the pay period by such farmer's milk handler in the same area for whole milk similar in quality and butterfat test to that marketed by the affected farmer in the base period used to determine his normal marketings, or (2) in the case of an affected farmer whose commercial market consists of direct retail sales to consumers, by multiplying the affected farmer's normal marketings for each such pay period by the average net price per hundredweight of whole milk, as determined by the County Committee, which other producers in the same area who marketed their whole milk through milk handlers received for whole milk similar in quality and butterfat test to that marketed by the affected farmer during the base period used to determine his normal marketings.

(c) In determining the net price for whole milk, the County Committee shall deduct from the gross price therefor any transportation, administrative, and other costs of marketing which it determines are normally incurred by the affected farmer but which were not incurred because of the removal of his whole milk from the commercial market.

§ 760.6 Information to be furnished.

The affected farmer shall furnish to the County Committee complete and accurate information sufficient to enable it to make the determinations required in §§ 760.4 and 760.5. Such information shall include, but is not limited to:

(a) A copy of the notice from, or other evidence of action by, the public agency or milk handler which resulted in the removal of the affected farmer's whole milk from the commercial market.

(b) The name of the pesticide causing the removal of his whole milk from the commercial market, if not included in the notice or other evidence of action furnished under paragraph (a) of this section.

(c) A record of the quantity and butterfat test of whole milk which he produced on his farm and marketed, (1) if the affected farmer is covered by the provisions of § 760.4(b)(1), during each pay period during the 15 months immediately prior to the time the whole milk was removed from the commercial market, or (2) if the affected farmer is covered by the provision of § 760.4(b)(2), during the 3 months immediately prior to the removal of his whole milk from the commercial market. This record shall be either a certified statement furnished by the affected farmer's milk handler, or such other evidence as the County Committee determines accurately establishes the butterfat test and quantity of whole milk produced and marketed during such periods.

(d) The number of cows milked during each pay period in the application period, and during the pay periods within the 3-month period immediately prior to the application period.

(e) If the affected farmer markets his whole milk through a milk handler, a statement from the milk handler showing

for each pay period in the application period, the average price per hundredweight of whole milk paid producers in the affected farmer's area for whole milk similar in quality to that marketed by the affected farmer during the base period used to determine his normal marketings. If the milk handler has information as to the transportation, administrative, and other costs of marketing which are normally incurred by producers who market through the milk handler but which the affected farmer did not incur because of removal of his whole milk from the market, the average price stated by the milk handler shall be the average gross price paid producers less any such costs. If the milk handler does not have such information, the affected farmer shall furnish a statement setting forth such costs, if any.

(f) The amount of proceeds, if any, received by the affected farmer from the marketing of whole milk produced during the application period.

(g) The amount of any payments not subject to refund made to the affected farmer by the milk handler with respect to the whole milk produced during the application period and removed from the commercial market.

(h) To the extent that such information is available to the affected farmer, the name of any pesticide used on the farm within 24 months prior to the application period, the use made of the pesticide, the approximate date of such use, and the name of the manufacturer and the registration number, if any, on the label on the container of the pesticide.

(i) To the extent possible, the source of the pesticide that caused the contamination of the whole milk, and the results of any laboratory tests on the feed supply.

(j) Such other information as the County Committee may request to enable them to make the determinations required in this subpart.

§ 760.7 Other requirements for affected farmers.

An indemnity payment will be made under this subpart to an affected farmer only under the following conditions:

(a) If the pesticide contaminating the milk was used by the affected farmer, he establishes each of the following:

(1) That the pesticide, when used, was registered and recommended for such use as provided in § 760.2(f);

(2) That the contamination of his milk was not the result of his failure to use the pesticide according to the directions and limitations stated on the label of the pesticide; and

(3) That the contamination of his milk was not otherwise his fault.

(b) If the pesticide contaminating the milk was not used by the affected farmer:

(1) He did not know or have reason to believe that any feed which he purchased and which contaminated his milk contained a harmful level of pesticide residue;

(2) None of the milk was produced by dairy cattle which he knew, at the time he acquired them, were contaminated by pesticide residue; and

(3) The contamination of his milk was not otherwise his fault.

(c) The affected farmer has adopted practices recommended for eliminating pesticide residues from his milk as soon as practicable.

§ 760.8 Application for payment.

The affected farmer or his legal representative, as provided in §§760.16 and 760.20, must sign and file an application for payment on a form which is approved for that purpose by the Deputy Administrator. The form must be filed with the ASCS County Office for the county where the farm headquarters are located no later than August 31, 1973, or such later date as the Deputy Administrator may specify. The application for payment shall cover application periods of at least 28 days, except that, if the entire application period, or the last application period, is shorter than 28 days, applications for payments may be filed for such shorter period. The application for payment shall be accompanied by the information required by § 760.6 as well as any other information which will enable the County Committee to determine whether or not the making of an indemnity payment is precluded for any of the reasons set forth in § 760.7. Such information shall be submitted on such forms as may be approved for the purpose by the Deputy Administrator.

PAYMENTS TO MANUFACTURERS

§ 760.11 Payments to manufacturers of dairy products.

An indemnity payment will be made to the affected manufacturer who is determined by the Deputy Administrator to be in compliance with all the terms and conditions of this subpart in the amount of the fair market value of the product removed from the commercial market because of pesticide residues, less any amount the manufacturer receives for the product in the form of salvage.

§ 760.12 Application for payment.

The affected manufacturer, or his legal representative, shall file an application for payment with the Deputy Administrator, ASCS, Washington, D.C., through the county office serving the county where the contaminated product is located. The application for payment may be in the form of a letter or memorandum. Such letter or memorandum, however, must be accompanied by acceptable documentation to support such application for payment.

§ 760.13 Information to be furnished by manufacturer.

The affected manufacturer shall furnish the Deputy Administrator, through the County Committee, complete and accurate information sufficient to enable him to make the determination as to the manufacturer's eligibility to receive an indemnity payment. Such information shall include but is not limited to:

(a) A copy of the notice or other evidence of action by the public agency which resulted in the product being removed from the commercial market.

(b) The name of the pesticide causing the removal of the product from the commercial market and, to the extent possible, the source of the pesticide.

(c) A record of the quantity of milk or butterfat used to produce the product for which an indemnity payment is requested.

(d) The identity of any pesticide used by the affected manufacturer.

(e) Such other information as Deputy Administrator may request to enable him to make the determinations required in this subpart.

§ 760.14 Other requirements for affected manufacturers.

An indemnity payment will be made under this subpart to an affected manufacturer only under the following conditions:

(a) If the pesticide contaminating the product was used by the affected manufacturer, he establishes each of the following: (1) That the pesticide, when used, was registered and recommended for such use as provided in § 760.2(f); (2) that the contamination of his product was not the result of his failure to use the pesticide in accordance with the directions and limitations stated on the label of the pesticide; and (3) that the contamination of his product was not otherwise his fault.

(b) If the pesticide contaminating the product was not used by the affected manufacturer: (1) He did not know or have reason to believe that the milk from which the product was processed contained a harmful level of pesticide residue; and (2) the contamination of his product was not otherwise his fault.

GENERAL PROVISIONS

§ 760.15 Limitation of authority.

(a) County executive directors and State and County Committees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) The State Committee may take any action authorized or required by the regulations in this subpart to be taken by the County Committee when such action has not been taken by the County Committee. The State Committee may also (1) correct, or require a County Committee to correct, any action taken by such County Committee which is not in accordance with the regulations in this subpart, or (2) require a County Committee to withhold taking any action which is not in accordance with the regulations in this subpart.

(c) No delegation herein to a State or County Committee shall preclude the Deputy Administrator or his designee from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or County Committee.

§ 760.16 Estates and trusts; minors.

(a) A receiver of an insolvent debtor's estate and the trustee of a trust estate shall, for the purposes of this subpart, be considered to represent an insolvent affected farmer or manufacturer and the beneficiaries of a trust, respectively, and the production of the receiver or trustee shall be considered to be the production of the person or manufacturer he represents. Program documents executed by any such person will be accepted only if they are legally valid and such person has the authority to sign the applicable documents.

(b) An affected dairy farmer or manufacturer who is a minor shall be eligible for indemnity payments only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable program documents are signed by the guardian; or (3) a bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had he been an adult.

§ 760.17 Appeals.

The Appeal Regulations issued by the Administrator, ASCS, Part 780 of this chapter, shall be applicable to appeals by dairy farmers or manufacturers from determinations made pursuant to the regulations in this subpart.

§ 760.18 Setoffs.

(a) If the affected farmer or manufacturer is indebted to any agency of the United States and such indebtedness is listed on the county debt record, indemnity payments due the affected farmer or manufacturer under the regulations in this part shall be applied, as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(b) Compliance with the provisions of this section shall not deprive the affected farmer or manufacturer of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 760.19 Overdisbursement.

If the indemnity payment disbursed to an affected farmer or to manufacturer exceeds the amount authorized under the regulations in this subpart, the affected farmer or manufacturer shall be personally liable for repayment of the amount of such excess.

§ 760.20 Death, incompetency or disappearance.

In the case of the death, incompetency, or disappearance of any affected farmer or manufacturer who is entitled to an indemnity payment, such payment may be made to the person or persons specified in the regulations contained in Part 707 of this chapter. The person requesting such payment shall file Form ASCS-325, "Application For Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," as provided in that part.

§ 760.21 Records and inspection thereof.

(a) The affected farmer, as well as his milk handler and any other person who furnishes information to such farmer or to the County Committee for the purpose of enabling such farmer to receive a milk indemnity payment under this subpart, shall maintain any existing books, records and accounts supporting any information so furnished for 3 years following the end of the year during which the application for payment was filed. The affected farmer, his milk handler and any other person who furnishes such information to the affected farmer or to the County Committee, shall permit authorized representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine and make copies of such books, records and accounts.

(b) The affected manufacturer or any other person who furnishes information to the Deputy Administrator for the purposes of enabling such manufacturer to receive an indemnity payment under this subpart shall maintain any books, records, and accounts supporting any information so furnished for 3 years following the end of the year during which the application for payment was filed. The affected manufacturer or any other person who furnishes such information to the Deputy Administrator shall permit authorized representatives of the Department of Agriculutre and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such book, records, and accounts.

§ 760.22 Assignment.

No assignment shall be made of any indemnity payment due or to come due under the regulations in this subpart.

§ 760.23 Instructions and forms.

The Deputy Administrator shall cause to be prepared such forms and instructions as are necessary for carrying out the regulations in this subpart. Affected farmers and manufacturers may obtain the forms and information necessary to make application for a milk indemnity payment from the ASCS County Office.

NOTE: The reporting and/or recordkeeping requirements contained herein has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: Date of publication (3-18-71).

Signed at Washington, D.C., on March 12, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-3742 Filed 3-17-71;8:47 am]

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

[Navel Orange Reg. 230]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.530 Navel Orange Regulation 230.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of navel oranges grown in Arizona and designated part of California, 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 Navel Orange 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 navel oranges, 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 Naval oranges 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 Navel oranges; 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 March 16, 1971.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period March 19, 1971 through March 25, 1971, are hereby fixed as follows:

(i) District 1: 852,000 cartons;

(ii) District 2: 348,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" 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:

Dated: March 17, 1971.

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

[FR Doc.71–3875 Filed 3–17–71;11:35 am]

[Valencia Orange Reg. 339]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.639 Valencia Orange Regulation 339.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, 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 Valencia Orange 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 Valencia oranges, 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 Valencia oranges 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 Valencia oranges; 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 March 16, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period March 19, 1971 through March 25, 1971, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: Unlimited;

(iii) District 3: 101,278 cartons.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" 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: March 17, 1971.

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

[FR Doc.71–3876 Filed 3–17–71;11:35 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69–WE–12–AD; Amdt; 39–1174]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707/720 Series Aircraft

Amendment 39–786 (34 F.R. 9748), AD 69–13–2, as amended by Amendment 39–800 (34 F.R. 12214), requires inspection and modification of the rudder hydraulic power actuator support fitting. After the issuance of Amendment 39–800, a failure of the upper and lower lugs of the actuator support fitting on the rudder occurred approximately 3,600 hours after the installation of the flanged bushings and 80 hours after the 1,200-hour inspection prescribed in paragraph (c) of AD 69–13–2. A visual inspection had been performed in this instance. The manufacturer has issued Revision 5 of the Service Bulletin No. 2903 in the light of this service experience. The agency has determined that, due to this service experience, the visual inspection allowed as one means of accomplishment of paragraphs (a) and (c) of AD–69–13–2, while providing a reasonable assurance as to the status of the fleet in general, is not entirely satisfactory. Therefore, for aircraft which have already been made subject to the inspection program prescribed by AD 69–13–2, a more intensive inspection program requiring ultrasonic or, with the bushings removed, an eddy current or dye penetrant inspection of the support fittings is being established. Some operators have already initiated this program as one of the means provided to accomplish paragraphs (a) and (c) of AD 69–13–2. For those aircraft that have not, since the original effective date of AD 69–13–2, received any of the inspections prescribed by that AD, and which, subsequent to the issuance of this Amendment, will be placed in service in air commerce with airworthiness certificates issued by the FAA, the agency is requiring that these aircraft receive, prior to further flight, either an ultrasonic inspection or, with the bushings removed, a dye penetrant or eddy current inspection of the support fittings and, in addition, the installation of the flanged aluminum-nickel-bronze bushings per paragraph (b) of this AD.

The terminating action of the AD is not being amended.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER (3–18–71).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–786 (34 F.R. 9748), AD 69–13–2, as amended by Amendment 39–800 (34 F.R. 12214), is further amended by adding new paragraphs d and e to the subject AD, as follows:

d. For those aircraft that have been previously inspected per paragraphs (a) and (c) above, but have not yet been modified by the replacement of the support fitting per (c) as of the effective date of this amendment to AD 69–13–2, as amended, accomplish the following in lieu of the repetitive inspections required by (a) (3) or (c) above, until a new support fitting made of 7075–T73 material is installed in accordance with (c), above:

1. Unless accomplished within the last 600 hours' time in service prior to the effective date of this amendment, within the next 600 hours' time in service after the effective date of this amendment, perform an ultrasonic inspection or, after removal of all bushings, a dye penetrant or eddy current inspection for evidence of cracks in the support fitting in accordance with Boeing Service Bulletin 2903, Revisions 5 dated February 3, 1971, or later FAA-approved revision, or an equivalent method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

2. If no cracks are detected, repeat the inspection of the support fitting per (d) (1)

at intervals not to exceed 1,200 hours' time in service until a new support fitting as described in (c) above, is installed.

3. If cracks are detected and are beyond rework limits per (a)(1), replace the fitting prior to further flight per (a)(2), above. On fittings other than those of 7075–T73 material, reinspect per (d)(2).

e. For those aircraft which have neither been inspected per paragraphs (a) and (c) above, nor modified by the replacement of the support fitting per (c), as of the effective date of this amendment to AD 69–13–2, as amended, accomplish the following in lieu of the repetitive inspections required by (a)(3) or (c) above, until a new support fitting made of 7075–T73 material is installed in accordance with (c), above.

1. Before further flight, remove the flush steel bushings and inspect the rudder hydraulic support fitting for cracks using ultrasonic or eddy current or dye penetrant inspection techniques in accordance with Boeing Service Bulletin 2903, Revision 4, dated June 2, 1969, and Revision 5, dated February 3, 1971, or later FAA-approved revision, or an equivalent method approved by the Chief, Aircraft Engineering Division, Western Region.

2. If cracks are found, either rework the fitting per (a)(1), above, or replace the fitting per (a)(2), above, whichever is applicable, before further flight.

3. If no cracks are found, before further flight install flanged aluminum-nickel-bronze bushings in the manner described in (b) above.

4. Reinspect fittings reworked per (e)(2) or (e)(3), above, at intervals not to exceed 1,200 hours' time in service in the manner described in (e)(1), above.

This amendment becomes effective on March 18, 1971.

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

Issued in Los Angeles, Calif., on March 5, 1971.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[FR Doc.71-3752 Filed 3-17-71;8:48 am]

[Docket No. 70-EA-105; Amdt. 39-1173]

PART 39—AIRWORTHINESS DIRECTIVES

Cleveland Aircraft Products

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Cleveland Aircraft Products brake disc assembly P/N 164–32.

There have been reports of separation of the brake disc assembly at the weld area. Since this is a deficiency which can develop in other assemblies of similar design, an airworthiness directive is being issued which will require a repetitive inspection and replacement where necessary.

Since a condition exists which requires expeditious adoption of this amendment, notice and public procedure herein are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

CLEVELAND AIRCRAFT PRODUCTS. Applies to Cleveland Aircraft Products, Division of Van Sickle Industries, 6.00–6 wheel/brake assembly, P/N 3080C/37–200A. Compliance required as indicated.

To prevent failure of the brake, due to separation of the brake disc assembly, P/N 164–32, at the weld area, accomplish the following:

(a) Within the next 25 hours in service, after the effective date of this AD, or within 50 hours since the last brake inspection conducted pursuant to this paragraph, whichever comes later, unless the alteration of paragraph (c)(1) has been accomplished, perform the following inspection:

Remove brake disc assembly, P/N 164–32, from the wheel and inspect the weld which attaches the disc to the cup for cracks, using a 10-power glass or other FAA approved equivalent means. If any cracks or other obvious defects are found, replace the disc assembly as indicated in paragraph (c).

(b) Until the alteration of paragraph (c)(1) is accomplished, repeat the procedure of paragraph (a) each 50 hours in service after the last inspection.

(c) At next brake overhaul or brake disc replacement,

(1) Replace brake disc, P/N 164–32, with one-piece brake disc, P/N 164–32F, in accordance with Cleveland Service Bulletin No. ESB 7000–2, Rev. (A) 251–2, dated January 15, 1971, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, Jamaica, N.Y. or

(2) If disc, P/N 164–32F, is not available at the time replacement is necessary, replace with disc, P/N 164–32, manufactured subsequent to May 23, 1969.

(This wheel and brake assembly installed on Piper PA–23–250 airplanes among others.)

This amendment is effective March 19, 1971.

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

Issued in Jamaica, N.Y., on March 4, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-3753 Filed 3-17-71;8:48 am]

[Docket No. 71-EA-37; Amdt. 39-1175]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 69–5–1 applicable to DeHavilland DHC–6 type airplanes.

As a result of fatigue data compiled by the manufacturer and reviewed by this agency, it has been determined that the 50-hour repetitive inspection of the control column subassembly may be relaxed to a 100-hour inspection.

Since the foregoing amendment is relaxatory in nature, notice and public procedure herein are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 69–5–1 as follows:

(1) Amend AD 69–5–1 by deleting the words and figures "not to exceed 50 hours time in service" in paragraph (a) and insert in lieu thereof the words and figures "not to exceed 100 hours time in service".

This amendment is effective March 23, 1971.

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

Issued in Jamaica, N.Y., on March 8, 1971.

ROBERT M. BROWN,
Acting Director, Eastern Region.

[FR Doc.71-3754 Filed 3-17-71;8:48 am]

[Airspace Docket No. 71-SO-1]

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

Alteration of Control Zones and Transition Area

On February 20, 1971, F.R. Doc. 71–2352 was published in the FEDERAL REGISTER (36 F.R. 3262), amending Part 71 of the Federal Aviation Regulations by altering certain control zones, including Fort Myers, Fla., and the Miami, Fla., transition area.

In the amendment, reference was made to Fort Myers, Fla., control zone, Fort Myers RBN and Tice RBN. Subsequent to publication of the rule, it was determined that discrepancies existed in the actions pertaining to Fort Myers and Tice. It is necessary to amend the rule to delete all references to Fort Myers and Tice. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. 71–2352 is amended as follows: All references to "Fort Myers, Fla., Fort Myers RBN and Tice RBN" are deleted wherever they appear.

(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 March 5, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3755 Filed 3-17-71;8:48 am]

[Airspace Docket No. 71-SO-32]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Fort Myers, Fla., transition area.

The Fort Myers transition area is described in § 71.181 (36 F.R. 2140 and 2965). In the description, reference is made to the Fort Myers RBN which, in compliance with agency policy, requires a name change to "Tice RBN." Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 27, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Fort Myers, Fla., transition area (36 F.R. 2965) is amended as follows: "* * * Fort Myers RBN * * *" is deleted and "* * * Tice RBN * * *" is substituted therefor.

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

Issued in East Point, Ga., on March 5, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-3756 Filed 3-17-71;8:48 am]

[Airspace Docket No. 70-EA-78]

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

Alteration of Transition Area

On page 16595 of the FEDERAL REGISTER for October 24, 1970, the Federal Aviation Administration published proposed regulations which would alter the Saranac Lake, N.Y. transition area (35 F.R. 2262).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., April 29, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on February 26, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Saranac Lake, N.Y., transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 44°23'05" N., 74°12'20" W. of Adirondack Airport, Saranac Lake, N.Y.; within 4.5 miles southeast and 9.5 miles northwest of the Saranac Lake VOR 237° radial, extending from the VOR to 18.5 miles southwest of the VOR.

[FR Doc.71-3757 Filed 3-17-71;8:48 am]

[Airspace Docket No. 71-SW-7]

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

Revocation and Designation of Control Zones and Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter controlled airspace in the Killeen, Tex., terminal area.

On February 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 2404) stating the Federal Aviation Administration proposed to revoke, designate, and after controlled airspace in the Killeen, Tex., terminal area.

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

In the notice of proposed rule making, the airspace descriptions of the Killeen, Tex., control zone and transition area included the statement, "excluding that portion within R-6302A." As the Federal Aviation Administration, Houston ARTC Center, is the controlling agency, the exclusions are unnecessary and are therefore deleted from the descriptions.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 27, 1971, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Killeen, Tex. (Fort Hood AAF), and Killeen, Tex. (Robert Gray AAF), control zones are revoked.

In § 71.171 (36 F.R. 2055), the Killeen, Tex., control zone is designated as follows:

KILLEEN, TEX.

Within a 5-mile radius of Fort Hood AAF (lat. 31°08'15" N., long. 97°42'50" W.); within a 4-mile radius of Killeen Municipal Airport (lat. 31°05'10" N., long. 97°41'05" W.); within 3 miles each side of the Hood VOR 219° radial extending from the 4-mile radius zone to 8 miles southwest of the VOR; within a 5-mile radius of Robert Gray AAF (lat. 31°04'20" N., long. 97°49'45" W.); from the Gray RBN (lat. 31°07'18" N. within 3.5 miles each side of the 341° bearing long. 97°51'02" W.) extending from the 5-mile radius zone to 11 miles north of the RBN.

In § 71.181 (36 F.R. 2140), the Killeen, Tex., transition area is amended as follows:

KILLEEN, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hood AAF (lat. 31°08'15" N., long. 97°42'50" W.); within a 7-mile radius of Robert Gray AAF (lat. 31°04'20" N., long. 97°49'45" W.); within 9.5 miles west and 5 miles east of the Hood VOR 352° and 172° radials extending from 2 miles north of the VOR to 12 miles south of the VOR; within 5 miles southeast and 9.5 miles northwest of the Hood VOR 219° T (210° M) radial extending from the VOR to 19 miles southwest of the VOR; within 3.5 miles each side of the 341° bearing from Gray RBN (lat. 31°07'18" N., long. 97°51'02" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

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

Issued in Forth Worth, Tex., on March 9, 1971.

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

[FR Doc.71-3759 Filed 3-17-71;8:48 am]

[Airspace Docket No. 71-SW-2]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Federal Airways and Jet Route Segments

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to alter VOR Federal airway and jet route segments in the vicinity of El Paso, Tex.

The El Paso VORTAC is scheduled to be relocated during June 1971 to a new site (lat. 31°48'59" N., long. 106°16'52" W.) located approximately 2 miles north of its present location. Accordingly, action is being taken herein to realign the VOR airway and jet route segments which utilize the El Paso VORTAC in their designation.

Since these amendments are minor in nature and no substantive change in the regulations is effected, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., June 24, 1971, as hereinafter set forth.

1. Section 71.123 (36 F.R. 2010) is amended as follows:

a. In V-66 "El Paso 112° and Hudspeth, Tex., 281° radials;" is deleted and "El Paso 109° and Hudspeth 287° radials;" is substituted therefor.

b. In V-198 "El Paso 112° and Hudspeth, Tex., 281° radials;" is deleted and "El Paso 109° and Hudspeth, Tex., 287° radials;" is substituted therefor.

c. In V-280 "El Paso 069°" is deleted and "El Paso 070°" is substituted therefor.

2. In Section 75.100 (36 F.R. 2371) the text of Jet Route No. 26 is amended by deleting "El Paso 069°" and substituting "El Paso 070°" therefor.

(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 Washington, D.C., on March 10, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-3758 Filed 3-17-71;8:48 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8737 o.]

PART 13—PROHIBITED TRADE PRACTICES

Golden Grain Macaroni Co. and Paskey DeDomenico

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets:* 13.5–20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Golden Grain Macaroni Co. et al., San Leandro, Calif., Docket No. 8737, Jan. 18, 1971]

In the Matter of Golden Grain Macaroni Co., a Corporation, and Paskey Domenico, Individually and as an Officer of Said Corporation.

Order requiring a San Leandro, Calif., manufacturer of macaroni and related paste products to divest within 1 year all assets of three previously acquired competitors in the Pacific Northwest and not to acquire for the next 10 years without prior approval of the Federal Trade Commission all or part of any firm manufacturing macaroni products in the Pacific Northwest

The order to cease and desists, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent, Golden Grain Macaroni Co., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns, within one (1) year from the date this order becomes final, divest, absolutely and in good faith, subject to the approval of the Federal Trade Commission, all stock, assets, or other interests acquired by Golden Grain Macaroni Co., or its subsidiaries, in Porter-Scarpelli Macaroni Co., as a result of Golden Grain Macaroni Co.'s acquisition of Mission Macaroni Co.

It is further ordered, That respondent Golden Grain Macaroni Co., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, within one (1) year from the date this order becomes final, divest, absolutely and in good faith, subject to the approval of the Federal Trade Commission, all stock, assets, or other interests, including the option to purchase additional stock or other interests, in Major Italian Foods Co., Inc., as a result of Golden Grain Macaroni Co.'s acquisition of stock of Major Italian Foods Co., Inc.

It is further ordered, That respondent Golden Grain Macaroni Co., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, within one (1) year from the date this order becomes final, divest, absolutely and in good faith, subject to the approval of the Federal Trade Commission, all stock, assets, or other interests acquired by Golden Grain Macaroni Co., or its subsidiaries, in Oregon Macaroni Co.

It is further ordered, That none of the stock, assets, properties, rights, or privileges to be divested be sold or transferred, directly or indirectly, to any person who is at the time of the divestiture an officer, director, employee, or agent of, or under the control or direction of, Golden Grain Macaroni Co. or any of its subsidiaries or affiliates, or who owns or controls, directly or indirectly, more than one (1) percent of the oustanding shares of voting stock of Golden Grain Macaroni Co., or any of its subsidiaries or affiliates.

It is further ordered, That for a period of ten (10) years respondent Golden Grain Macaroni Co. shall cease and desist from acquiring, directly or indirectly, without prior approval of the Federal Trade Commission, the whole or any part of the share capital or other assets of any corporation engaged in the manufacture of dry paste products within the Pacific Northwest.

It is further ordered, That the initial decision of the hearing examiner, as modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents shall, within sixty (60) days from the date of service of this order and every sixty (60) days thereafter until diverstiture is fully effected, submit to the Commission a detailed report of their actions, plans, and progress in complying with the divestiture provisions of this order, and fulfilling their objectives. All reports shall include, among other things that will be from time to time required, a summary of all contacts and negotiations with potential purchasers of the stock, assets, properties, rights or privileges to be divested under this order, the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

Issued: January 18, 1971.

By the Commission.[1]

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-3773 Filed 3-17-71;8:49 am]

[Docket No. C-1859]

PART 13—PROHIBITED TRADE PRACTICES

Leon Wolff and Lincoln School of Practical Nursing

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–125 Individual or private business being: 13.15–125(m) Educational or research institution; § 13.115 *Jobs and employment service;* § 13.143 *Opportunities;* § 13.170 *Qualities or properties of product or service:* 13.170–35 Educational, informative, training. Subpart—Using misleading name—Vendor: § 13.2410 *Individual or private business being educational, religious or research institution or organization.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Leon Wolff et al., Los Angeles, Calif., Docket No. C-1859, Feb. 1, 1971]

In the Matter of Leon Wolff, an Individual, Trading and Doing Business as Lincoln School of Practical Nursing.

Consent order requiring a Los Angeles, Calif., individual selling a correspondence course of instruction in practical nursing to cease representing that completion of respondent's course will qualify a person to perform the functions of, or be qualified for employment as, a practical nurse, misrepresenting the training afforded or the type of employment for which a trainee will qualify, using the words "practical nursing" in any of his promotional material, and failing to clearly disclose in such material that persons completing the course need properly supervised experience.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Leon Wolff, an individual trading and doing business as Lincoln School of Practical Nursing or under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of courses of instruction in nursing or any other subject, trade or vocation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. Persons completing respondent's course of instruction in practical nursing will, by virtue of having completed said course, have become and will thereby be proficient and competent in the performance of the duties and functions of a practical nurse;

2. Persons completing respondent's course of instruction in practical nursing will, by virtue of having completed said course, have become and will thereby be a practical nurse;

3. Person completing respondent's course of instruction in practical nursing will, by virtue of having completed said course, have become and will thereby be qualified for employment as a practical nurse.

B. Misrepresenting, in any manner:

1. The training afforded by any of respondent's courses;

2. The nature or type of employment for which persons completing any of respondent's courses of instruction will thereby be qualified.

[1] Commissioner MacIntyre did not participate.

C. Using the words "practical nursing" or any other words or terms of similar import or meaning as a part of a trade or corporate name, or in advertising and promotional material, form letters or other printed or written material; misrepresenting in any other manner that respondent is engaged in training persons to be practical nurses: *Provided, however,* That nothing herein shall be deemed to prevent respondent from using the terms "nurse's aide" or "nursing attendant" in a truthful and nondeceptive manner.

It is further ordered, That, in any advertisement seeking leads to prospective purchasers of his course in practical nursing, the respondent herein shall disclose clearly, and in type no smaller than the largest size type used in the body copy of the advertisement, that persons completing said course cannot consider themselves competent in the performance of nursing skills until they have had properly supervised experience, in addition to respondent's course; provided that nothing herein shall be deemed to prevent respondent from making truthful and nondeceptive representations as to the nature of such training as may be provided by his course.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: February 1, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-3774 Filed 3-17-71;8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

TYLOSIN

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13-076V) filed by Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing revised labeling regarding the safe and effective use of tylosin in the drinking water of chickens and turkeys. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by revising items 1 and 2 in table 2 of paragraph (d) in § 121.217 as follows:

§ 121.217 Tylosin.

* * * * * * *

(d) * * *

TABLE 2—TYLOSIN IN DRINKING WATER

Principal ingredient	Grams per gallon	Combined with—	Quantity	Limitations	Indications for use
1. Tylosin	2			For chickens; do not use in layers producing eggs for human consumption; administer from 1 to 5 days as sole source of drinking water; treated chickens should consume enough medicated drinking water to provide 50 milligrams of tylosin per pound of body weight per day; prepare a fresh solution every 3 days; do not administer within 24 hours of slaughter; as tylosin tartrate.	As an aid in the treatment of chronic respiratory disease (CRD) caused by *Mycoplasma gallisepticum* sensitive to tylosin in broiler and replacement flocks; or, at time of vaccination or other stress, for the control of CRD caused by *Mycoplasma gallisepticum* sensitive to tylosin.
2. Tylosin	2			For turkeys; do not use in layers producing eggs for human consumption; administer from 2 to 5 days as sole source of drinking water; treated turkeys should consume enough medicated drinking water to provide 60 milligrams of tylosin per pound of body weight per day; prepare a fresh solution every 3 days; when sinus swelling is present inject the sinus with tylosin injectable simultaneously with the drinking water treatment; do not administer within 5 days of slaughter; as tylosin tartrate.	Maintaining weight gains and feed efficiency in the presence of infectious sinusitis caused by *Mycoplasma gallisepticum* sensitive to tylosin.
* * *	* * *	* * *	* * *	* * *	* * *

* * * * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (3-18-71).

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

Dated: March 9, 1971.

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

[FR Doc.71-3732 Filed 3-17-71;8:46 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH FOOD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9B2375), filed by Industrial Bio-Test Laboratories, Inc., 1810 Frontage Road, Northbrook, IL 60062, and other relevant material, concludes that § 121.2526 of the food additive regulations should be amended to provide for the safe use of acrylamide-methacrylic acid-maleic anhydride copolymers as a retention aid in the manufacture of paper and paperboard for food-contact use.

The petition was filed proposing also that § 121.2526 be amended to provide for the safe use of acrylamide-dimethylaminoethyl methacrylate copolymer as a retention aid. The petitioner subsequently withdrew this request.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(a)(5) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* * *
Acrylamide - methacrylic acid-maleic anhydride copolymers containing not more than 0.2 percent of residual acrylamide monomer and having an average nitrogen content of 14.9 percent such that a 1 percent by weight aqueous solution has a minimum viscosity of 600 centipoises at 75° F., as determined by LVG-series Brookfield viscometer (or equivalent) using a No. 2 spindle at 30 r.p.m.	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such an amount that the finished paper and paperboard will contain the additive at a level not in excess of 0.05 percent by weight of dry fibers in the finished paper and paperboard.
* * *	* * *

* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3-18-71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 9, 1971.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[FR Doc.71-3733 Filed 3-17-71;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7098]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Capitalization of Costs of Planting and Developing Citrus Groves

On November 20, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 278 of the Internal Revenue Code of 1954 (relating to capitalization of costs of planting and developing citrus groves) to reflect the changes made by section 216 of the Tax Reform Act of 1969 (83 Stat. 573) was published in the FEDERAL REGISTER (35 F.R. 17844). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Paragraph (a) § 1.278-1, as set forth in paragraph (1) of the notice of proposed rule making, is changed by revising subparagraph (1)(i), (2)(ii), and (3)(ii), and by adding a new subdivision (iii) to subparagraph (2).

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

[SEAL] RANDOLPH W. THROWER,
Commissioner.

Approved: March 12, 1971.

JOHN S. NOLAN,
Acting Asistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 278 of the Internal Revenue Code of 1954 to section 216 of the Tax Return Act of 1969 (83 Stat. 573), such regulations are amended as follows:

PARAGRAPH 1. There are inserted immediately after § 1.275-1 the following new sections:

§ 1.278 Statutory provisions; capital expenditures incurred in planting and developing citrus groves.

SEC. 276. *Capital expenditures incurred in planting and developing citrus groves*—(a) *General rule.* Except as provided in subsection (b), any amount (allowable as a deduction without regard to this section), which it attributable to the planting, cultivation, maintenance, or development of any citrus grove (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted, shall be charged to capital account. For purposes of the preceding sentence, the portion of a citrus grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(b) *Exceptions.* Subsection (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus grove (or part thereof) which was:

(1) Replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests, or casualty, or

(2) Planted or replanted prior to the enactment of this section.

[Sec. 278 as added by sec. 216, Tax Reform Act 1969 (83 Stat. 573)]

§ 1.278-1 Capital expenditures incurred in planting and developing citrus groves.

(a) *General rule.* (1)(i) For taxable years beginning after December 31, 1969, and except as provided in subparagraph (2)(ii) of this paragraph and paragraph (b) of this section, there shall be charged to capital account any amount (allowable as a deduction without regard to section 278 of this section) which is attributable to the planting, cultivation, maintenance, or development of any citrus grove (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted. For purposes of section 278 and this section, such an amount shall be considered as "incurred" in accordance with the taxpayer's regular tax accounting method used in reporting income and expenses connected with the citrus grove operation. For purposes of this paragraph, the portion of a citrus grove planted in one taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). T, a fiscal year taxpayer plants a citrus grove 5 weeks before the close of his taxable year ending in 1971. T is required to capitalize any amount (allowable as a deduction without regard to section 278 or this section) attributable to the planting, cultivation, maintenance, or development of such grove until the close of his taxable year ending in 1974.

Example (2). Assume the same facts as in example (1), except that T plants one portion of such grove 5 weeks before the close of his taxable year ending in 1971 and another portion of such grove at the beginning of his taxable year ending in 1972. The required capitalization period for exapenses attributable to the first portion of such grove shall run until the close of T's taxable year ending in 1974. The required capitalization period for expenses attributable to the second portion of such grove shall run until the close of T's taxable year ending in 1975.

(2)(i) For purposes of section 278 and this section a "citrus grove" is defined as one or more trees of the rue family, often thorny and bearing large fruit with hard, usually thick peel and pulpy flesh, such as the orange, grapefruit, lemon, lime, citron, tangelo, and tangerine.

(ii) An amount attributable to the cultivation, maintenance, or development of a citrus grove (or part thereof) shall include, but shall not be limited to, the following developmental or cultural practices expenditures: Irrigation, cultivation, pruning, fertilizing, management fees, frost protection, spraying, and upkeep of the citrus grove. The provisions of section 278(a) and this paragraph shall apply to expenditures for

fertilizer and related materials notwithstanding the provisions of section 180, but shall not apply to expenditures attributable to real estate taxes or interest, to soil and water conservation expenditures allowable as a deduction under section 175, or to expenditures for clearing land allowable as a deduction under section 182. Further, the provisions of section 278(a) and this paragraph apply only to expenditures allowable as deductions without regard to section 278 and have no application to expenditures otherwise chargeable to capital account, such as the cost of the land and preparatory expenditures incurred in connection with the citrus grove.

(iii) For purposes of section 278 and this section, a citrus tree shall be considered to be "planted" on the date on which the tree is placed in the permanent grove from which production is expected.

(3) (i) The period during which expenditures described in section 278(a) and this paragraph are required to be capitalized shall, once determined, be unaffected by a sale or other disposition of the citrus grove. Such period shall, in all cases, be computed by reference to the taxable years of the owner of the grove at the time that the citrus trees were planted. Therefore, if a citrus grove subject to the provisions of section 278 or this paragraph is sold or otherwise transferred by the original owner of the grove before the close of his fourth taxable year beginning with the taxable year in which the trees were planted, expenditures described in section 278(a) or this paragraph made by the purchaser or other transferee of the citrus grove from the date of his acquisition until the close of the original holder's fourth such taxable year are required to be capitalized.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. T, a fiscal year taxpayer, plants a citrus grove at the beginning of his taxable year ending in 1971. At the beginning of his taxable year ending in 1972, T sells the grove to X. The required period during which expenditures described in section 278 (a) are required to be capitalized runs from the date on which T planted the grove until the end of T's taxable year ending in 1974. Therefore, X must capitalize any such expenditures incurred by him from the time he purchased the grove from T until the end of T's taxable year ending in 1974.

(b) *Exceptions.* (1) Paragraph (a) of this section shall not apply to amounts allowable as deductions (without regard to section 278 or this section) and attributable to a citrus grove (or part thereof) which is replanted by a taxpayer after having been lost or damaged (while in the hands of such taxpayer) by reason of freeze, disease, drought, pests, or casualty.

(2) (i) Paragraph (a) of this section shall not apply to amounts allowable as deductions (without regard to section 278 or this section), and attributable to a citrus grove (or part thereof) which was planted or replanted prior to December 30, 1969.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). T, a fiscal year taxpayer with a taxable year of July 1, 1969, through June 30, 1970, plants a citrus grove on August 1, 1969. Since the grove was planted prior to December 30, 1969, no expenses incurred with respect to the grove shall be subject to the provisions of paragraph (a).

Example (2). Assume the same facts as in example (1), except that T plants the grove on March 1, 1970. Since the grove was planted after December 30, 1969, all amounts allowable as deductions (without regard to section 278 or this section) and attributable to the grove shall be subject to the provisions of paragraph (a). However, since paragraph (a) applies only to taxable years beginning after December 31, 1969, T must capitalize only those amounts incurred during his taxable years ending in 1971, 1972, and 1973.

[FR Doc.71-3781 Filed 3-17-71;8:50 am]

[T.D. 7097]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Election Relating to Crop Insurance Proceeds

On December 3, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 451 of the Internal Revenue Code of 1954 (pertaining to elections relating to crop insurance proceeds) to reflect the changes made by section 215 of the Tax Reform Act of 1969 (83 Stat. 573) was published in the FEDERAL REGISTER (35 F.R. 18389). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Paragraph (b) of § 1.451–6, as set forth in paragraph 2 of the notice of proposed rule making, is revised.

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

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: March 12, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 451(d) of the Internal Revenue Code of 1954 to section 215 of the Tax Reform Act of 1969 (83 Stat. 573), such regulations are amended as follows:

PARAGRAPH 1. Section 1.451 is amended by adding a new subsection (d) to section 451 and by revising the historical note. These amended and added provisions read as follows:

§ 1.451 Statutory provisions; general rule for taxable year of inclusion.

SEC. 451. *General rule for taxable year of inclusion.* * * *

(d) *Special rule for crop insurance proceeds.* In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the taxable year following the taxable year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following taxable year. An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary or his delegate prescribes.

[Sec. 451 as amended by sec. 313(b), Social Security Amendments, 1965 (79 Stat. 382); by sec. 215, Tax Reform Act, 1969 (83 Stat. 573)]

PAR. 2. There is inserted immediately after § 1.451–5 the following new section:

§ 1.451–6 Election to include crop insurance proceeds in gross income in the taxable year following the taxable year of destruction or damage.

(a) *In general.* (1) For taxable years ending after December 30, 1969, a taxpayer reporting gross income on the cash receipts and disbursements method of accounting may elect to include insurance proceeds received as a result of the destruction of, or damage to, crops in gross income for the taxable year following the taxable year of such destruction or damage, if the taxpayer establishes that, under his normal business practice, the income from such crops would have been included in gross income for any taxable year following the taxable year of such destruction or damage. However, if the taxpayer receives such insurance proceeds in the taxable year following the taxable year of such destruction or damage, then he shall include such proceeds in gross income for the taxable year of receipt without having to make an election under section 451(d) and this section.

(2) In the case of a taxpayer who receives insurance proceeds as a result of the destruction of, or damage to, two or more specific crops, if such proceeds may, under section 451(d) and this section, be included in gross income for the taxable year following the taxable year of such destruction or damage, and if such taxpayer makes an election under section 451(d) and this section with respect to any portion of such proceeds, then such election will be deemed to cover all of such proceeds which are attributable to crops representing a single trade or business under section 446(d). A separate election must be made with respect to insurance proceeds attributable to each crop which represents a separate trade or business under section 446(d).

(b) (1) *Time and manner of making election.* The election to include in gross income insurance proceeds received as a result of destruction of, or damage to, the taxpayer's crops in the taxable year following the taxable year of such destruction or damage shall be made by means of a statement attached to the taxpayer's return (or an amended return) for the taxable year of destruction or damage. The statement shall include the name and address of the taxpayer (or his duly authorized representative),

and shall set forth the following information:

(i) A declaration that the taxpayer is making an election under section 451(d) and this section;

(ii) Identification of the specific crop or crops destroyed or damaged;

(iii) A declaration that under the taxpayer's normal business practice the income derived from the crops which were destroyed or damaged would have been included in this gross income for a taxable year following the taxable year of such destruction or damage;

(iv) The cause of destruction or damage of crops and the date or dates on which such destruction or damage occurred;

(v) The total amount of payments received from insurance carriers, itemized with respect to each specific crop and with respect to the date each payment was received;

(vi) The name(s) of the insurance carrier or carriers from whom payments were received.

(2) *Scope of election.* Once made, an election under section 451(d) is binding for the taxable year for which made unless the district director consents to a revocation of such election. Requests for consent to revoke an election under section 451(d) shall be made by means of a letter to the district director for the district in which the taxpayer is required to file his return, setting forth the taxpayer's name, address, and identification number, the year for which it is desired to revoke the election, and the reasons therefor.

[FR Doc.71-3780 Filed 3-17-71;8:49 am]

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7096]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Voluntary Withholding Agreements

On January 1, 1971, notice of proposed rule making with respect to the amendment of the Employment Tax Regulations (26 CFR Part 31) under sections 3401, 3402, 6011, and 6302 of the Internal Revenue Code of 1954 to conform to the portion of section 805(g) to the Tax Reform Act of 1969 (83 Stat. 708), relating to voluntary withholding agreements under new subsection (p)(1) of section 3402 of the Code, was published in the FEDERAL REGISTER (36 F.R. 20). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (b)(1) of § 31.3402(p)-1, as set forth in paragraph 3 of the notice of proposed rule making, is revised.

PAR. 2. In lieu of the amendments to paragraph (a) of § 31.6302(c)-1, as set forth in paragraph 5 of the notice of proposed rule making, such paragraph is amended by revising subdivisions (iii) and (iv) of subparagraph (1), by revising the heading and subdivisions (ii) and (iii) of subparagraph (2), and by revising subdivision (iii) of subparagraph (3) thereof.

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

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: March 12, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

In order to conform the Employment Tax Regulations (26 CFR Part 31) under sections 3401, 3402, 6011, and 6302 of the Internal Revenue Code of 1954 to the portion of section 805(g) of the Tax Reform Act of 1969 (83 Stat. 708) relating to new subsection (p)(1) of section 3402 of the Code, such regulations are amended as follows:

PARAGRAPH 1. Section 31.3401(a)-2 is amended by adding a new paragraph (a)(4). This added provision reads as follows:

§ 31.3401(a)-2 Exclusions from wages.

(a) *In general.* * * *

(4) For provisions relating to payments with respect to which a voluntary withholding agreement is in effect, which are not defined as wages in section 3401(a) but which are nevertheless deemed to be wages, see §§ 31.3401(a)-3 and 31.3402(p)-1.

* * * * *

PAR. 2. The following new section is added immediately after § 31.3401(a)-2.

§ 31.3401(a)-3 Amounts deemed wages under voluntary withholding agreements.

(a) *In general.* Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§ 31.3401(a)-3).

(b) *Remuneration for services.* (1) Except as provided in subparagraph (2) of this paragraph, the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a). For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§ 31.3401(c)-1 and 31.3401(d)-1 for the definitions of "employee" and "employer".

(2) For purposes of this paragraph, remuneration for services shall not include amounts not subject to withholding under § 31.3401(a)-1(b)(12) (relating to remuneration for services performed by a permanent resident of the Virgin Islands), § 31.3401(a)-2(b) (relating to fees paid to a public official), section 3401(a)(5) (relating to remuneration for services for foreign government or international organization), section 3401(a)(8)(B) (relating to remuneration for services performed in a possession of the United States (other than Puerto Rico) by citizens of the United States), section 3401(a)(8)(C) (relating to remuneration for services performed in Puerto Rico by citizens of the United States), section 3401(a)(11) (relating to remuneration other than in cash for service not in the course of employer's trade or business), section 3401(a)(12) (relating to payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans), section 3401(a)(14) (relating to group-term life insurance), section 3401(a)(15) (relating to moving expenses), or section 3401(a)(16)(A) (relating to tips paid in any medium other than cash).

PAR. 3. The following new sections are added immediately after § 31.3402(o)-1.

§ 31.3402(p) Statutory provisions; income tax collected at source; voluntary withholding agreements.

SEC. 3402. *Income tax collected at source.* * * *

(p) *Voluntary withholding agreements.* The Secretary or his delegate is authorized by regulations to provide for withholding—

(1) From remuneration for services performed by an employee for his employer which (without regard to this subsection) does not constitute wages, and

(2) From any other type of payment with respect to which the Secretary or his delegate finds that withholding would be appropriate under the provisions of this chapter, if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to such withholding. Such agreement shall be made in such form and manner as the Secretary or his delegate may by regulations provide. For purposes of this chapter (and so much of subtitle F as relates to this chapter) remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

[Sec. 3402(p) as added by sec. 805(g), Tax Reform Act of 1969 (83 Stat. 708)]

§ 31.3402(p)-1 Voluntary withholding agreements.

(a) *In general.* An employee and his employer may enter into an agreement under section 3402(p) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of § 31.3401(a)-3, made after December 31, 1970. An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee. The amount to be withheld pursuant to an agreement under

section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder.

(b) *Form and duration of agreement.* (1) (i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W–4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W–4 shall constitute a request for withholding.

(ii) In the case of an employee who desires to enter into an agreement under section 3402(p) with his employer, if the employee performs services (in addition to those to be the subject of the agreement) the remuneration for which is subject to mandatory income tax withholding by such employer, or if the employee wishes to specify that the agreement terminate on a specific date, the employee shall furnish the employer with a request for withholding which shall be signed by the employee, and shall contain—

(*a*) The name, address, and social security number of the employee making the request,

(*b*) The name and address of the employer,

(*c*) A statement that the employee desires withholding of Federal income tax, and

(*d*) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement.

If accepted by the employer as provided in subdivision (iii) of this subparagraph, the request shall be attached to, and constitute part of, the employee's Form W–4. An employee who furnishes his employer a request for withholding under this subdivision shall also furnish such employer with Form W–4 if such employee does not already have a Form W–4 in effect with such employer.

(iii) No request for withholding under section 3402(p) shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made.

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W–4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W–4.

PAR. 4. Section 31.6011(a)–4 is amended by revising paragraph (a) thereof to read as follows:

§ 31.6011(a)–4 Returns of income tax withheld from wages.

(a) *In general.* (1) Except as otherwise provided in subparagraph (3) of this paragraph and in § 31.6011(a)–5, every person required to make a return of income tax withheld from wages pursuant to section 1622 of the Internal Revenue Code of 1939 for the calendar quarter ended December 31, 1954, shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with § 31.6011 (a)–6. Except as otherwise provided in subparagraph (3) of this paragraph and in § 31.6011(a)–5, every person not required to make a return for the calendar quarter ended December 31, 1954, shall make a return of income tax withheld from wages pursuant to section 3402 for the first calendar quarter thereafter in which he is required to deduct and withhold such tax and for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with § 31.6011 (a)–6. Except as otherwise provided in subparagraph (2) or (3) of this paragraph, Form 941 is the form prescribed for making the return required under this paragraph.

(2) Form 942 is the form prescribed for making the return required under subparagraph (1) of this paragraph with respect to income tax withheld, pursuant to an agreement under section 3402(p), from wages paid for domestic service in a private home of the employer not on a farm operated for profit. The preceding sentence shall not apply in the case of an employer who has elected under paragraph (a)(3) of § 31.6011(a)–1 to use Form 941 as his return with respect to such payments for purposes of the Federal Insurance Contributions Act.

(3) Every person shall make a return of income tax withheld. pursuant to an agreement under section 3402(p), from wages paid for agricultural labor for the first calendar year in which he is required (by reason of such agreement) to deduct and withhold such tax and for each subsequent calendar year (whether or not wages for agricultural labor are paid therein) until he has filed a final return in accordance with § 31.6011 (a)–6. Form 943 is the form prescribed for making the return required under this subparagraph.

* * * * *

PAR. 5. Paragraph (a) of § 31.6302 (c)–1 is amended by revising subdivisions (iii) and (iv) of subparagraph (1), by revising the heading and subdivisions (ii) and (iii) of subparagraph (2), and by revising subdivision (iii) of subparagraph (3) thereof. These revised provisions read as follows:

§ 31.6302(c)–1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement*—(1) *In General.* * * *

(iii) As used in subdivisions (i) and (ii) of this subparagraph, the term "taxes" means—

(*a*) The employee tax withheld under section 3102.

(*b*) The employer tax under section 3111, and

(*c*) The income tax withheld under section 3402,

exclusive of taxes with respect to wages for domestic service in a private home of the employer or, if paid before February 1, 1971, wages for agricultural labor. In addition, with respect to wages paid after December 31, 1970, and before April 1, 1971, for agricultural labor, any taxes described in subparagraph (2)(ii) of this paragraph which are not required under such paragraph to be deposited, and any income tax withheld under section 3402 with respect to such wages, shall be deemed to be "taxes" on and after April 1, 1971.

(iv) If the aggregate amount of taxes reportable on a return (other than a return on Form 942) for a return period exceeds the total amount deposited by the employer pursuant to subdivision (i) or (ii) of this subparagraph for such return period (*a*) by $200 or more in the case of a return period which ends after December 31, 1970, or (*b*) by more than $100 in the case of a return period which ends before January 1, 1971, the employer shall, on or before the last day of the first calendar month following the return period, deposit with a Federal Reserve bank or authorized commercial bank an amount equal to the amount by which the taxes reportable on the return exceed the total deposits (if any) made pursuant to subdivision (i) or (ii) of this subparagraph for such period. As used in this subdivision, the term "taxes" shall have the meaning assigned to such term in subdivision (iii) of this subparagraph, except that the term shall include the taxes referred to in (*a*), (*b*), and (*c*) of such subdivision (iii) of this subparagraph with respect to any wages for domestic service in a private home of the employer which the employer elects to report on a quarterly return other than a quarterly return made on Form 942.

(2) *Wages paid before April 1 1971, with respect to agricultural labor.* * * *

(ii) *Requirement for taxes with respect to wages paid after December 31, 1955, and before April 1, 1971.* Except as provided in paragraph (b) of this section, if during any calendar month other than December, after December 31, 1955, and before April 1, 1971, the aggregate amount of—

(*a*) The employee tax withheld under section 3102 during such month with respect to wages for agricultural labor, plus any such employee tax which was

previously withheld in the same calendar year with respect to such wages but which was neither deposited nor required to be deposited on or before the last day of such month, and

(b) The employer tax under section 3111 for such month with respect to wages for agricultural labor, plus any such employer tax, which was neither deposited nor required to be deposited on or before the last day of such month, for any prior month of the same calendar year with respect to wages for agricultural labor,

exceeds $100 in the case of an employer, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with a Federal Reserve bank or authorized commercial bank.

(iii) *Additional requirement for 1968, 1969, and 1970.* If the aggregate amount of taxes reportable on a return on Form 943 for calendar year 1968, 1969, or 1970, exceeds by more than $100 the total amount deposited by the employer pursuant to subdivision (ii) of this subparagraph for such calendar year, the employer shall, on or before the last day of the first calendar month following the period for which the return is required to be filed, deposit with a Federal Reserve bank or authorized commercial bank an amount equal to the amount by which the taxes reportable on the return exceed the total deposits (if any) made pursuant to subdivision (ii) of this subparagraph for such calendar year.

(3) *Depositary forms.* * * *

(iii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited under subparagraph (1) of this paragraph for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Withheld Income and FICA Taxes, form (Form 501), or the Federal tax deposit form applicable to FICA taxes and withheld income taxes with respect to agricultural workers (Form 511), or both, as the case may be. Each remittance of amounts required to be deposited under subparagraph (2) of this paragraph for years subsequent to 1967 and before 1971 and for January, February, and March 1971 shall be accompanied by the Federal tax deposit form applicable to FICA taxes with respect to agricultural workers (Form 511). Such forms shall be prepared in accordance with the instructions applicable thereto. The remittance, together with the required form or forms, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date the deposit is received (or is deemed received under section 7502 (e)) by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

* * * * *

[FR Doc.71-3779 Filed 3-17-71;8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

Gulf of Maine, Maine

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.1a is hereby prescribed establishing and governing the use and navigation of a naval aircraft practice mining range area in the Gulf of Maine off Cape Small, Maine, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.1a Gulf of Maine off Cape Small, Maine; Naval aircraft practice mining range area.

(a) *The danger zone.* Within an area bounded as follows: Beginning at latitude 43°43'00", longitude 69°46'00"; thence to latitude 43°38'30", longitude 69°46'00"; thence to latitude 43°38'30", longitude 69°49'30"; thence to latitude 43°42'10", longitude 69°49'30"; thence to the point of beginning.

(b) *The regulations.* (1) Test drops from aircraft will be made within the area at intermittent periods from noon until sunset local time and only during periods of good visibility .

(2) Testing will not restrict any fishing, recreational, or commercial activities in the testing area.

(3) Aircraft will patrol the area prior to and during test periods to insure that no surface vessels are within the area. No test drops will be made while surface vessels are transitting the area.

(4) No live ammunition or explosives will be dropped in the area.

(5) The regulations of this section shall be enforced by the Commandant, First Naval District, Boston, Mass., or such agencies as he may designate.

[Regs., March 1, 1971, 1522-02 (Gulf of Maine, Maine)—ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-3720 Filed 3-17-71;8:45 am]

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Chesapeake Bay, Md., and Alligator Bayou, Fla.

1. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) § 204.36 establishing and governing the use and navigation of a danger zone in the Chesapeake Bay, in the vicinity of Bloodsworth Island, Md., is hereby revised in its entirety to include a prohibited area, effective upon publication in the FEDERAL REGISTER (3-18-71), as follows:

§ 204.36 Chesapeake Bay, in vicinity of Bloodsworth Island, Md.; shore bombardment, air bombing, air strafing, and rocket firing area. U.S. Navy.

(a) *The areas*—(1) *Prohibited area.* All waters within a circle 0.5-mile in radius with its center at latitude 38°10'00", longitude 76°06'00".

(2) *The danger zone.* All waters of Chesapeake Bay and Tangier Sound within an area bounded as follows: Beginning at latitude 38°08'15", longitude 76°10'00"; thence to latitude 38°12'00", longitude 76°10'00"; thence to latitude 38°12'00", longitude 76°07'00"; thence to latitude 38°13'00", longitude 76°06'00"; thence to latitude 38°13'00", longitude 76°04'00"; thence to latitude 38°12'00", longitude 76°02'00"; thence to latitude 38°12'00", longitude 76°00'00"; thence to latitude 38°08'15", longitude 76°00'00"; thence to the point of beginning, excluding the prohibited area described in subparagraph (1) of this paragraph.

(b) *The regulations.* (1) Vessels or other craft shall not enter or remain in the prohibited area at any time unless authorized to do so by the enforcing agency.

(2) No vessel or other craft shall enter or remain in the danger zone when notified by the enforcing authority to keep clear or when firing is or will soon be in progress, except as provided in subparagraph (5) of this paragraph.

(3) Advance notice will be given of the dates and times of all firings in the danger zone and such notice will be published in the local "Notice to Mariners." The area will be in use intermittently throughout the year. On days when firing is conducted, firing will take place normally between sunrise and sunset, except that occassional night firing may be conducted between sunset and 12 midnight.

(4) Prior to the commencement of firing each day in the danger zone, surface or air search of the entire area will be made for the purpose of locating and warning all craft and persons not connected with the firing, and a patrol will be maintained throughout the duration of firing.

(5) Warning that ships are firing or soon will be firing in the danger zone

will be indicated during daylight by a red flag prominently displayed from a tower off Okahanikan Point at latitude 38°11'-45", longitude 76°05'35", and at night by a searchlight beam pointed into the sky. Warning that aircraft are firing or soon will be firing will be indicated by the aircraft patrolling the area. All persons, vessels, or other craft shall clear the area when these signals are displayed or when warned by patrol vessels or by aircraft employing the method of warning known as "buzzing" which consists of low flight by the airplane and repeated opening and closing of the throttle.

(6) During hours when firing is in progress or is about to commence, no fishing or oystering vessels or other craft not directly connected with the firing shall navigate within the danger zone, except that deep-draft vessels proceeding in established navigation lanes and propelled by mechanical power at a speed greater than 5 knots normally will be permitted to traverse the area. When ships are firing or soon will be firing in the danger zone, permission for such deep-draft vessels to enter and traverse the area will be indicated during daylight by dipping the red warning flag to half-mast, and at night flashing the warning searchlight. When aircraft are firing or soon will be firing in the danger zone, such deep-draft vessels may proceed unless warned to stay clear of the area by the method of warning known as "buzzing."

(7) When firing is not in progress or is not about to commence, oystering and fishing boats and other craft may operate within the danger zone.

(8) All projectiles, bombs, and rockets will be fired to land on Bloodsworth Island or Pone Island, but Naval authorities will not be responsible for damage by such projectiles, bombs, or rockets, or by Navy or Coast Guard vessels, to nets, traps, buoys, pots, fish pounds, stakes, or other equipment which may be located within the danger zone.

(9) The regulations in this section shall be enforced by the Commandant, Fifth Naval District, and such agencies as he may designate.

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) § 207.175d is hereby prescribed establishing and governing the use and navigation of a restricted area in Alligator Bayou, Florida, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.175d Alligator Bayou, a tributary of St. Andrew Bay, Florida; restricted area.

(a) *The area.* All waters of Alligator Bayou from a line connecting points of latitude 30°10'21", longitude 85°45'07" and latitude 30°10'16", longitude 85°45'04" to State Road 392.

(b) *The regulation.* (1) No vessel shall enter the area or navigate therein without permission of the Commanding Officer, Southern Division, Naval Facilities Engineering Command, 2144 Melbourne Street, Post Office Box 10068, Charleston, SC 29411, or his authorized representative.

(2) The regulation of this section shall be enforced by the Commanding Officer, Southern Division, Naval Facilities Engineering Command, or such agencies as he may designate.

[Regs., Mar. 2, 1971, 1522-01 (Chesapeake Bay, Md.)—ENGCW-ON; Regs., Feb. 25, 1971, 1522-01 (Alligator Bayou, Fla.)—ENGCW-ON] (Sec. 7, 40 Stat. 226, 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-3722 Filed 3-17-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

Subpart 9-1.7—Small Business Concerns

PART 9-51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

Subpart 9-51.1—Headquarters Review and Approval of Field Office Actions

MISCELLANEOUS AMENDMENTS

Pursuant to agreement with the Small Business Administration this amendment to AEC small business policy changes the limit from $500,000 to $1 million on AEC acceptance of Small Business Administration-initiated class set-asides for formally advertised construction procurements. It also provides for consideration of small business set-aside preferences in excess of $1 million on a case-by-case basis.

1. Section 9-1.705-3, *Screening of procurements,* is revised to read as follows:

§ 9-1.705-3 Screening of procurements.

(a) *Class set-asides.* An agreement has been reached between the AEC and the SBA that AEC would accept SBA initiation of class set-asides for formally advertised construction procurements estimated to cost between $2,500 and $1 million, including new construction and repair and alteration of structures. When in the judgment of the contracting officer a particular procurement falling within these dollar limits is determined unsuitable for a set-aside for exclusive small business participation, he shall notify the appropriate SBA representative of this decision. Unless SBA appeals the decision (see FPR 1-1.706-2), the contracting officer shall proceed to process the procurement on an unrestricted basis. Small business set-aside preferences should be considered for construction procurements in excess of $1 million on a case-by-case basis, favoring such preferential participation of small business whenever appropriate.

2. In § 9-51.103 *Supporting data for contract actions requiring Headquarters advance approval,* a new § 9-51.103-6 *Determinations and findings,* is added:

§ 9-51.103 Supporting data for contract actions requiring Headquarters advance approval.

§ 9-51.103-6 Determinations and findings.

All Determinations and findings required by FPR Subparts 1-3.2 and 1-3.3 and AECPR Subparts 9-3.2 and 9-3.3, with the exception of FPR 1-3.303 and AECPR 9-3.303 shall be executed by the Contracting Officer, and a copy of such finding shall be included in the supporting data for contract actions requiring Headquarters advance approval.

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER (3-18-71).

Dated at Germantown, Md., this 10th day of March 1971.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director,
Division of Contracts.

[FR Doc.71-3717 Filed 3-17-71;8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 217]

PART 1122—DISCONTINUANCE OR CHANGE OF OPERATION OR SERVICE

Operation or Service of Trains or Ferries by Carriers

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 11th day of March A.D. 1971.

It appearing, that under the provisions of section 401(a)(1) of the Rail Passenger Service Act of 1970 (45 U.S.C. 501 note), Public Law 91-518, a railroad, after May 1, 1971, upon its entering into a valid contract with the National Railroad Passenger Corp., shall be relieved of its responsibilities as a common carrier of passengers by rail in intercity rail passenger service under Part I of the Interstate Commerce Act or any State or other law relating to the provision of intercity passenger service: *Provided,* That any railroad discontinuing a train hereunder must give notice in accordance with the notice procedures contained in section 13a(1) of the Interstate Commerce Act.

It further appearing, that inasmuch as the § 1122.9 contemplated herein is directed only to the filing of notices under

section 401(a)(1) of the Rail Passenger Service Act, supra, and that the Commission has no jurisdiction or reviewability over said notices, and that the said notices may be effective as early as May 1, 1971, further notice and public procedure are unnecessary. And good cause therefor appearing:

It is ordered, That Part 1122, be and it is hereby, amended as follows:

§ 1122.9 Notice of discontinuance filed pursuant to the Rail Passenger Service Act of 1970, section 401(a)(1).

Any notice of intercity passenger train discontinuance filed by a common carrier by rail pursuant to section 401(a)(1) of the Rail Passenger Service Act of 1970 (45 U.S.C. 501 note), which, in part, provides that a railroad upon entering into a valid contract with the National Railroad Passenger Corp. shall be relieved of all its responsibilities as a common carrier of passengers by rail in intercity rail passenger service, shall be submitted in accordance with the following:

(a) The form and style of notice shall be the same as that designated in §1122.3 and shall include: (1) The information required in § 1124.4 (a), (b), and (c) of this chapter; (2) a statement advising the public that subject trains, are intercity and entitled to be discontinued by virtue of section 401(a)(1) of the Rail Passenger Service Act of 1970 (45 U.S.C. 501 note) and, therefore, the Interstate Commerce Commission cannot entertain protests since the discontinuance is not within its jurisdiction; and a statement advising that any filing of a notice of discontinuance under this section shall not, under any circumstances, invoke the Commission's jurisdiction under section 13a(1) of the Interstate Commerce Act;

(b) Three copies of said notice shall be filed with the Secretary of the Commission accompanied by three copies of an opinion of counsel that the said trains to be discontinued are intercity passenger trains subject to the said Rail Passenger Service Act of 1970 and not excepted therefrom by section 102(5) of the cited Act.

(c) Prior to the effective date of the discontinuance there shall be filed with the Commission three copies of a verified statement, executed by a responsible official of the carrier, that a valid contract has been entered into with the National Railroad Passenger Corp.

(d) The provisions of § 1122.5 et seq. and the fee for filing notice of discontinuance, as set forth in § 1002.2(d)(17) of this chapter shall not be applicable to notices filed under this section.

(e) Except for notices of discontinuance filed pursuant to section 401(a)(1) of the Rail Passenger Service Act of 1970, Public Law 91-518, all other regulations concerning train discontinuance proceedings shall remain in full force and effect.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12; sec. 5, Public Law 85-625; sec. 401(a)(1) (45 U.S.C. 501 note), Public Law 51-518)

It is further ordered, That this order become effective on the date hereof and shall continue in effect until further order of this Commission; and

It is further ordered, That as hereby amended, the order of the Commission of August 14, 1958, as amended, shall remain in full force and effect and that notice of this amendment be given to the general public by posting copies in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing with the Director of the Federal Register, Washington, D.C.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-3788 Filed 3-17-71;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

DISTRIBUTIONS OF STOCK AND STOCK RIGHTS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 305(c) (83 Stat. 614; 26 U.S.C. 305(c)) and section 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 305 of the Internal Revenue Code of 1954, as amended by section 421(a) of the Tax Reform Act of 1969 (83 Stat. 614), §§ 1.305 through 1.305–3 are deleted and the following substituted therefor:

§ 1.305 Statutory provisions; distributions of stock and stock rights.

SEC. 305. *Distributions of stock and stock rights*—(a) *General rule.* Except as otherwise provided in this section, gross income does not include the amount of any distribution of the stock of a corporation made by such corporation to its shareholders with respect to its stock.

(b) *Exceptions.* Subsection (a) shall not apply to a distribution by a corporation of its stock, and the distribution shall be treated as a distribution of property to which section 301 applies—

(1) *Distributions in lieu of money.* If the distribution is at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either—

(A) In its stock, or

(B) In property.

(2) *Disproportionate distributions.* If the distribution (or a series of distributions of which such distribution is one) has the result of—

(A) The receipt of property by some shareholders, and

(B) An increase in the proportionate interests of other shareholders in the assets or earnings and profits of the corporation.

(3) *Distributions of common and preferred stock.* If the distribution (or a series of distributions of which such distribution is one) has the result of—

(A) The receipt of preferred stock by some common shareholders, and

(B) The receipt of common stock by other common shareholders.

(4) *Distributions on preferred stock.* If the distribution is with respect to preferred stock, other than an increase in the conversion ratio of convertible preferred stock made solely to take account of a stock dividend or stock split with respect to the stock into which such convertible stock is convertible.

(5) *Distributions of convertible preferred stock.* If the distribution is of convertible preferred stock, unless it is established to the satisfaction of the Secretary or his delegate that such distribution will not have the result described in paragraph (2).

(c) *Certain transactions treated as distributions.* For purposes of this section and section 301, the Secretary or his delegate shall prescribe regulations under which a change in conversion ratio, a change in redemption price, a difference between redemption price and issue price, a redemption which is treated as a distribution to which section 301 applies, or any transaction (including a recapitalization) having a similar effect on the interest of any shareholder shall be treated as a distribution with respect to any shareholder whose proportionate interest in the earnings and profits or assets of the corporation is increased by such change, difference, redemption or similar transaction.

(d) *Definitions*—(1) *Rights to acquire stock.* For purposes of this section, the term "stock" includes rights to acquire such stock.

(2) *Shareholders.* For purposes of subsections (b) and (c), the term "shareholder" includes a holder of rights or of convertible securities.

(e) *Cross references.* For special rules—

(1) Relating to the receipt of stock and stock rights in corporate organizations and reorganizations, see part III (section 351 and following).

(2) In the case of a distribution which results in a gift, see section 2501 and following.

(3) In the case of a distribution which has the effect of the payment of compensation, see section 61(a)(1).

[Sec. 305 as amended by sec. 421(a), Tax Reform Act 1969 (83 Stat. 614)]

§ 1.305–1 Stock dividends.

(a) *In general.* Under section 305, a distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock is not included in gross income except as provided in section 305 (b) and the regulations promulgated under the authority of section 305(c). A distribution made by a corporation to its shareholders in its stock or rights to acquire its stock which would not otherwise be included in gross income by reason of section 305 shall not be so treated merely because such distribution was made out of Treasury stock or consisted of rights to acquire Treasury stock. See section 307 for rules as to basis of stock and stock rights acquired in a distribution.

(b) *Amount of distribution.* (1) In general, where a distribution of stock or rights to acquire stock of a corporation is treated as a distribution of property to which section 301 applies by reason of section 305(b), the amount of the distribution, in accordance with section 301(b) and § 1.301–1, is the fair market value of such stock or rights on the date of distribution. See example (1) of § 1.305–2(b).

(2) Where a corporation which regularly distributes its earnings and profits, such as a regulated investment company, declares a dividend pursuant to which the shareholders may elect to receive either money or stock of the distributing corporation of equivalent value, the amount of the distribution of the stock received by any shareholder electing to receive stock will be considered to equal the amount of the money which could have been received instead. See example (2) of § 1.305–2(b).

(3) Where certain transactions, such as changes in conversion ratios or periodic redemptions, are treated as distributions, see examples (8) and (9) of § 1.305–3(e) for rules for determining the amount of the distribution.

(c) *Adjustment in purchase price.* A transfer of stock (or rights to acquire stock) or an increase in the conversion ratio or redemption price of stock which represents an adjustment of the price to be paid by the distributing corporation in acquiring property is not within the purview of section 305 because it is not a distribution with respect to its stock. For example, assume that on January 1, 1970, pursuant to a reorganization, corporation X acquires all the stock of corporation Y solely in exchange for its convertible preferred class B stock. Under the terms of the class B stock, its conversion ratio is to be adjusted in 1973 under a formula based upon the earnings of corporation Y over the 3-year period ending on December 31, 1972. Such an adjustment in 1973 is not covered by section 305.

(d) *Definitions.* (1) For purposes of this section and §§ 1.305–2 through 1.305–6, the term "stock" includes rights or warrants to acquire such stock.

(2) For purposes of §§ 1.305–3 through 1.305–6, the term "shareholder" includes

a holder of rights or warrants or a holder of convertible securities.

§ 1.305–2 Distributions in lieu of money.

(a) *In general.* Under section 305(b)(1), if any shareholder has the right to an election or option with respect to whether a distribution shall be made either in money or any other property, or in stock or rights to acquire stock of the distributing corporation, then, with respect to all shareholders, the distribution of stock or rights to acquire stock is treated as a distribution of property to which section 301 applies regardless of—

(1) Whether the distribution is actually made in whole or in part in stock or in stock rights;

(2) Whether the election or option is exercised or exercisable before or after the declaration of the distribution;

(3) Whether the declaration of the distribution provides that the distribution will be made in one medium unless the shareholder specifically requests payment in the other;

(4) Whether the election governing the nature of the distribution is provided in the declaration of the distribution or in the corporate charter; or

(5) Whether all or part of the shareholders have the election.

(b) *Examples.* The application of section 305(b)(1) may be illustrated by the following examples:

Example (1). (i) Corporation X declared a dividend payable in additional shares of its common stock to the holders of its outstanding common stock on the basis of two additional shares for each share held on the record date but with the provision that, at the election of any shareholder made within a specified period prior to the distribution date, he may receive one additional share for each share held on the record date plus $12 principal amount of securities of corporation Y owned by corporation X. The fair market value of the stock of corporation X on the distribution date was $10 per share. The fair market value of $12 principal amount of securities of corporation Y on the distribution date was $11 but such securities had a cost basis to corporation X of $9.

(ii) The distribution to all shareholders of one additional share of stock of corporation X (with respect to which no election applies) for each share outstanding is not a distribution to which section 301 applies.

(iii) The distribution of the second share of stock of corporation X to those shareholders who do not elect to receive securities of corporation Y is a distribution of property to which section 301 applies, whether such shareholders are individuals or corporations. The amount of the distribution to which section 301 applies is $10 per share of stock of corporation X held on the record date (the fair market value of the stock of corporation X on the distribution date).

(iv) The distribution of securities of corporation Y in lieu of the second share of stock of corporation X to the shareholders of corporation X whether individuals or corporations, who elect to receive such securities, is also a distribution of property to which section 301 applies.

(v) In the case of the individual shareholders of corporation X who elect to receive such securities, the amount of the distribution to which section 301 applies is $11 per share of stock of corporation X held on the record date (the fair market value of the $12 principal amount of securities of corporation Y on the distribution date).

(vi) In the case of the corporate shareholders of corporation X electing to receive such securities, the amount of the distribution to which section 301 applies is $9 per share of stock of corporation X held on the record date (the basis of the securities of corporation Y in the hands of corporation X).

Example (2). On January 10, 1970, corporation X, a regulated investment company, declared a dividend of $1 per share on its common stock payable on February 11, 1970, in cash or in stock of corporation X of equivalent value determined as of January 22, 1970, at the election of the shareholder made on or before January 22, 1970. The amount of the distribution to which section 301 applies is $1 per share whether the shareholder elects to take cash or stock and whether the shareholder is an individual or a corporation. Such amount will also be used in determining the dividend paid deduction of corporation X and the reduction in earnings and profits of corporation X.

§ 1.305–3 Disproportionate distributions.

(a) *In general.* Under section 305(b)(2), a distribution by a corporation of its stock or rights to acquire its stock is treated as a distribution of property to which section 301 applies if the distribution (or a series of distributions of which such distribution is one) has the result of (1) the receipt of money or other property by some shareholders, and (2) an increase in the proportionate interests of other shareholders in the assets or earnings and profits of the corporation. Thus, if a corporation has two classes of common stock outstanding and each share of stock has substantially the same rights except that cash dividends are paid on one class and stock dividends are paid on the other class, the stock dividends are treated as distributions to which section 301 applies.

(b) *Special rules.* (1) As used in section 305(b)(2), the term "a series of distributions" encompasses all distributions of stock made or deemed made by a corporation which have the result of the receipt of cash or property by some shareholders and an increase in the proportionate interests of other shareholders.

(2) In order for a distribution of stock to be considered as one of a series of distributions it is not necessary that such distribution be pursuant to a plan to distribute cash or property to some shareholders and to increase the proportionate interests of other shareholders. It is sufficient if there is an actual or deemed distribution of stock (of which such distribution is one) and as a result of such distribution or distributions some shareholders receive cash or property and other shareholders increase their proportionate interests. For example, if a corporation pays quarterly stock dividends to one class of common shareholders and annual cash dividends to another class of common shareholders the quarterly stock dividends constitute a series of distributions of stock having the result of the receipt of cash or property by some shareholders and an increase in the proportionate interests of other shareholders. This is so whether or not the stock distributions and the cash distributions are steps in an overall plan or are independent and unrelated. Accordingly, all the quarterly stock dividends are distributions to which section 301 applies.

(3) There is no requirement that both elements of section 305(b)(2) (i.e., receipt of cash or property by some shareholders and an increase in proportionate interests of other shareholders) occur in the form of a distribution or series of distributions as long as the result of a distribution or distributions of stock is that some shareholders' proportionate interests increase and other shareholders in fact receive cash or property. Thus, there is no requirement that the shareholders receiving cash or property acquire the cash or property by way of a corporate distribution with respect to their shares, so long as they receive such cash or property in their capacity as shareholders, if there is a stock distribution which results in a change in the proportionate interests of some shareholders and other shareholders receive cash or property. For example, if a corporation makes a stock distribution to its shareholders, and pursuant to a prearranged plan with such corporation, a related corporation purchases such stock in a transaction to which section 304 applies from those shareholders who want cash, the requirements of section 305(b)(2) are satisfied.

(4) Where the receipt of cash or property occurs more than 36 months following a distribution or series of distributions of stock, or where a distribution or series of distributions of stock is made more than 36 months following the receipt of cash or property, such distribution or distributions will be presumed not to result in the receipt of cash or property by some shareholders and an increase in the proportionate interest of other shareholders, unless the receipt of cash or property and the distribution or series of distributions of stock are made pursuant to a plan. For example, if, pursuant to a plan, a corporation pays cash dividends to some shareholders on January 1, 1971 and increases the proportionate interests of other shareholders on March 1, 1974, in order to reflect the earlier cash dividends, such increases in proportionate interests are distributions to which section 301 applies.

(5) In determining whether a distribution or a series of distributions has the result of a disproportionate distribution, there shall be treated as outstanding stock of the distributing corporation (i) any right to acquire such stock (whether or not exercisable during the taxable year), and (ii) any security convertible into stock of the distributing corporation (whether or not convertible during the taxable year).

(6) In cases where there is more than one class of stock outstanding, each class of stock is to be considered separately in determining whether a shareholder has

increased his proportionate interest in the assets or earnings and profits of a corporation. The individual shareholders of a class of stock will be deemed to have an increased interest if the class of stock as a whole has an increased interest in the corporation.

(c) *Distributions of cash in lieu of fractional shares.* (1) Section 305(b)(2) will not apply if a corporation declares a dividend payable in stock of the corporation and distributes cash in lieu of fractional shares to which shareholders would otherwise be entitled, provided the purpose of the distribution of cash is to save the corporation the trouble, expense, and inconvenience of issuing and transferring fractional shares (or scrip representing fractional shares), or issuing full shares representing the sum of fractional shares, and not to give any particular group of shareholders an increased interest in the assets and earnings and profits of the corporation. For purposes of the preceding sentence, if the total amount of cash distributed annually in lieu of fractional shares is 5 percent or less of the total fair market value of the stock distributed (determined as of the date of declaration), the distribution shall be considered to be for such valid purpose.

(2) In a case to which subparagraph (1) of this paragraph applies, the transaction will be treated as though the fractional shares were distributed as part of the stock distribution and then were redeemed by the corporation. The treatment of the cash received by a shareholder will be determined under section 302.

(d) *Adjustment in conversion ratio.* If a corporation has convertible stock or convertible securities outstanding and distributes a stock dividend with respect to the stock into which the convertible stock or securities are convertible, no increase in proportionate interest in the assets or earnings and profits of the corporation by reason of such stock dividend shall be considered as having occurred provided—

(1) An adjustment in the conversion ratio to reflect such stock dividend is made no later than the earlier of (i) 3 years after the date of the stock dividend, or (ii) that date as of which the aggregate stock dividends, for which adjustment of the conversion ratio has not previously been made, total at least 3 percent of the stock issued and outstanding on the date of the first such stock dividend, and

(2) The distributing corporation attaches to its income tax return for the taxable year of the distribution (i) a statement that the corporation elects to make an adjustment in accordance with the provisions of subparagraph (1) of this paragraph, and (ii) a copy of the corporate authority for such an adjustment procedure.

(e) *Examples.* The application of sections 305(b)(2) and 305(c) may be illustrated by the following examples:

Example (1). Corporation X is organized with two classes of common stock, class A and class B. Each share of stock is entitled to share equally in the assets and earnings and profits of the corporation. Dividends may be paid in stock or in cash on either class of stock without regard to the medium of payment of dividends on the other class. A dividend is declared on the class A stock payable in additional shares of class A stock and a dividend is declared on class B stock payable in cash. Since the class A shareholders as a class will have increased their proportionate interests in the assets and earnings and profits of the corporation and the class B shareholders will have received cash, the additional shares of class A stock are distributions of property to which section 301 applies. This is true even with respect to those shareholders who may own class A stock and class B stock in the same proportion.

Example (2). Corporation Y is organized with two classes of stock, class A common, and class B, which is nonconvertible and limited and preferred as to dividends. A dividend is declared upon the class A stock payable in additional shares of class A stock and a dividend is declared on the class B stock payable in cash. The distribution of class A stock is not one to which section 301 applies because the distribution does not increase the proportionate interests of the class A shareholders as a class.

Example (3). Corporation K is organized with two classes of stock, class A common, and class B, which is nonconvertible preferred stock. A dividend is declared upon the class A stock payable in shares of class B stock and a dividend is declared on the class B stock payable in cash. Since the class A shareholders as a class have an increased interest in the assets and earnings and profits of the corporation, the stock distribution is treated as a distribution to which section 301 applies. If, however, a dividend were declared upon the class A stock payable in a new class of preferred stock that is subordinated in all respects to the class B stock, the distribution would not increase the proportionate interests of the class A shareholders in the assets or earnings and profits of the corporation and would not be treated as a distribution to which section 301 applies.

Example (4). (i) Corporation W has one class of stock outstanding, class A common. The corporation also has outstanding interest paying securities convertible into class A common stock which have a fixed conversion ratio that is not subject to adjustment in the event stock dividends or rights are distributed to the class A shareholders. Corporation W distributes to the class A shareholders rights to acquire additional shares of class A stock.

(ii) The stock rights and convertible securities are considered to be outstanding stock of the corporation and the distribution increases the proportionate interests of the class A shareholders in the assets and earnings and profits of the corporation. Therefore, the distribution is treated as a distribution to which section 301 applies. The same result would follow if, instead of convertible securities, the corporation had outstanding convertible stock. If, however, the conversion ratio of the securities or stock were adjusted to reflect the distribution of rights to the class A shareholders, the rights to acquire class A stock would not increase the proportionate interests of the class A shareholders in the assets and earnings and profits of the corporation and would not be treated as a distribution to which section 301 applies.

Example (5). (i) Corporation S is organized with two classes of stock, class A common and class B convertible preferred. The class B is fully protected against dilution in the event of a stock dividend or stock split with respect to the class A stock; however, no adjustment in the conversion ratio is required to be made until the stock dividends equal 3 percent of the common stock issued and outstanding on the date of the first such stock dividend.

(ii) Corporation S pays a 1 percent stock dividend on the class A stock in 1970. In 1971, another 1 percent stock dividend is paid and in 1972 another 1 percent stock dividend is paid. The conversion ratio of the class B stock is increased in 1972 to reflect the three stock dividends paid on the class A stock. The distributions of class A stock are not distributions to which section 301 applies because they do not increase the proportionate interests of the class A shareholders in the assets and earnings and profits of the corporation provided the information required under § 1.305-3(d) is filed within within the time and manner described.

Example (6). (i) Corporation M is organized with two classes of stock outstanding, class A and class B. Each class B share may be converted, at the option of the holder, into class A shares. During the first year, the conversion ratio is one share of class A stock for each share of class B stock. At the beginning of each subsequent year, the conversion ratio is increased by 0.05 share of class A stock for each share of class B stock. Thus, during the second year, the conversion ratio would be 1.05 shares of class A stock for each share of class B stock, during the third year, the ratio would be 1.10 shares, etc.

(ii) M pays an annual cash dividend on the class A stock. At the beginning of the second year, when the conversion ratio is increased to 1.05 shares of class A stock for each share of class B stock, a distribution of 0.05 share of class A stock is considered as made on the class B stock. Since the proportionate interests of the class B shareholders in the assets and earnings and profits of M are increased, and since cash dividends were paid on the class A stock the distribution is a distribution to which section 301 applies.

Example (7). (i) Corporation N has two classes of stock outstanding, class A and class B. Each class B share is convertible, at the option of the holder, into class A stock. However, in accordance with a specified formula, this ratio is decreased each time a cash dividend is paid on the class B stock to reflect the amount of the cash dividend. The conversion ratio is also adjusted in the event that cash dividends are paid on the class A stock to increase the number of class A shares into which the class B shares are convertible to compensate the class B shareholders for the cash dividend paid on the class A stock.

(ii) A $1 cash dividend per share is declared and paid on the class B stock. On the date of payment, when the conversion ratio is decreased a distribution of stock is considered as made with respect to each share of class A stock reflecting each such share's increased proportionate interest in the assets and earnings and profits of the corporation. The distribution is a distribution to which section 301 applies.

(iii) In the following year a cash dividend is paid on the class A stock and none is paid on the class B stock. The increase in conversion rights of the class B shares constitutes an increase in the proportionate interest in the assets and earnings and profits of the corporation and is treated as a distribution to which section 301 applies.

Example (8). Corporation T has 1,000 shares of stock outstanding. C owns 100 shares. Nine other shareholders each owns 100 shares. Pursuant to a plan for periodic redemptions, T offers to redeem up to 5 percent of each shareholder's stock each year.

During the year, each of the nine other shareholders has 5 shares of his stock redeemed for cash. Thus, C's proportionate interest in the assets and earnings and profits of T is increased. Assuming that the cash received by the nine other shareholders is taxable under section 301, C is considered to have received a distribution under sections 305(b)(2) and 305(c) of 5.25 shares of T stock to which section 301 applies. The amount of C's distribution is measured by the fair market value of the number of shares which would have been distributed to C had the corporation sought to increase his interest by 0.47 percentage points (C owned 10 percent of the T stock immediately before the redemption and 10.47 percent immediately thereafter) and the other shareholders continued to hold 900 shares (i.e.,

(a) $\frac{100}{955}=10.47\%$ (percent of C's ownership after redemption);

(b) $\frac{100+x}{1000+x}=10.47\%$; $x=5.25$ (additional shares considered to be distributed to C)).

Since in computing the amount of additional shares deemed to be distributed to C the redemption of shares is disregarded, the redemption of shares will be similarly disregarded in determining the value of the stock of the corporation which is considered to be distributed. Thus, in the example, 1,005.25 shares of stock are considered as outstanding after the redemption. The value of each share deemed to be distributed to C is then determined by dividing the 1,005.25 shares into the aggregate fair market value of the actual shares outstanding (955) after the redemption.

Example (9). (i) Corporation O has an optional stock redemption program under which, instead of paying out earnings and profits to its shareholders in the form of dividends, it offers to redeem the stock of its shareholders up to a stated amount which is determined by the earnings and profits of the corporation. If the stock tendered for redemption exceeds the stated amount, the corporation redeems the stock on a pro rata basis up to the stated amount.

(ii) During the year corporation O offers to distribute $10,000 in redemption of its stock. At the time of the offering, corporation O has 1,000 shares outstanding of which E and F each owns 150 shares and G and H each owns 350 shares. The corporation redeems 15 shares from E and 35 shares from G. F and H continue to hold all of their stock.

(iii) F and H have increased their proportionate interests in the assets and earnings and profits of the corporation. Assuming that the cash E and G receive is taxable under section 301, F will be considered to have received a distribution under sections 305(b)(2) and 305(c) of 16.66 shares of stock to which section 301 applies and H will be considered to have received a distribution under sections 305(b)(2) and 305(c) of 38.86 shares of stock to which section 301 applies. The amount of the distribution to F and H is measured by the number of shares which would have been distributed to F and H had the corporation sought to increase the interest of F by 0.79 percentage points (F owned 15 percent of the stock immediately before the redempton and 15.79 percent immediately thereafter) and the interest of H by 1.84 percentage points (H owned 35 percent of the stock immediately before the redemption and 36.84 percent immediately thereafter) and E and G had continued to hold 150 shares and 350 shares, respectively (i.e.,

(a) $\frac{150}{950}\times\frac{350}{950}=52.63\%$ (percent of F and H's ownership after redemption);

(b) $\frac{500+y}{1000+y}=52.63\%$; $y=55.52$ (additional shares considered to be distributed to F and H);

(c) (1) $\frac{150}{500}\times 55.52=16.66$ (shares considered to be distributed to F);

(2) $\frac{350}{500}\times 55.52=38.86$ (shares considered to be distributed to H)).

Since in computing the amount of additional shares deemed to be distributed to F and H the redemption of shares is disregarded, the redemption of shares will be similarly disregarded in determining the value of the stock of the corporation which is considered to be distributed. Thus, in the example, 1,055.52 shares of stock are considered as outstanding after the redemption. The value of each share deemed to be distributed to F and H is then determined by dividing the 1,055.52 shares into the aggregate fair market value of the actual shares outstanding (950) after the redemption.

Example (10). Corporation P has 1,000 shares of stock outstanding. T owns 700 shares of the P stock and G owns 300 shares of the P stock. In a single and isolated redemption to which section 301 applies, the corporation redeems 150 shares of T's stock. Since this is an isolated redemption, G is not treated as having received a distribution to which section 301 applies even though he has an increased proportionate interest in the assets and earnings and profits of the corporation.

Example (11). Corporation Q is a large corporation whose sole class of stock is widely held. However, the four largest shareholders are officers of the corporation and each owns 8 percent of the outstanding stock. In 1970, a fire destroys one of Q's factory buildings and, rather than rebuild, Q decides to distribute the insurance proceeds to its shareholders. Accordingly, in 1970 the insurance proceeds are distributed pro rata in redemption of part of Q's stock pursuant to a plan of partial liquidation. In 1974, in a distribution to which section 301 applies, the corporation redeems 1.5 percent of the stock from each of the four largest shareholders in preparation for their retirement. Since the 1974 redemptions are not part of a plan for periodically redeeming the stock of the corporation, the remaining shareholders are not treated as having received a distribution to which section 301 applies even though they have an increased proportionate interest in the assets and earnings and profits of the corporation.

Example (12). Corporation R has 2,000 shares of class A stock outstanding. Five shareholders own 300 shares each and five shareholders own 100 shares each. In preparation for the retirement of the five major shareholders, corporation R, in a single and isolated transaction, has a recapitalization in which each share of class A stock may be exchanged either for five shares of new class B nonconvertible preferred stock plus 0.4 share of new class C common stock, or for two shares of new class C common stock. As a result of the exchanges, each of the five major shareholders receives 1,500 shares of class B nonconvertible preferred stock and 120 shares of class C common stock. The remaining shareholders each receives 200 shares of class C common stock. None of the exchanges are within the purview of section 305.

Example (13). (i) Corporation V is organized with two classes of stock, class A common and class B convertible preferred. The class B stock is issued for $100 per share and is convertible into class A at a fixed ratio that is not subject to adjustment in the event stock dividends or rights are distributed to the class A shareholders. The class B stock pays no dividends but it is redeemable in 10 years for $200. Under section 305(b)(4) (see example (6) of § 1.305-5(c)), the excess of redemption price over issue price is deemed to be a substitute for dividends and the dividends are considered to be distributed ratably over the 10-year period since there are no facts to show that such excess constitutes a reasonable call premium. During the year, the corporation declares a dividend on the class A stock payable in additional shares of class A stock.

(ii) The distribution on the class A stock is a distribution to which section 301 applies since it increases the proportionate interests of the class A shareholders in the assets and earnings and profits of the corporation and the class B stockholders have received property. If, however, the conversion ratio of the class B stock were subject to adjustment to reflect the distribution of stock to class A shareholders, the distribution of stock dividends on the class A stock would not increase the proportionate interests of the class A shareholders in the assets and earnings and profits of the corporation and such distribution would not be a distribution to which section 301 applies.

§ 1.305-4 Distributions of common and preferred stock.

(a) *In general.* Under section 305(b)(3), a distribution (or a series of distributions) by a corporation which results in the receipt of preferred stock whether or not convertible into common stock) by some common shareholders and the receipt of common stock by other common shareholders is treated as a distribution of property to which section 301 applies. For the meaning of the term "a series of distributions," see § 1.305-3(b)(1).

(b) *Examples.* The application of section 305(b)(3) may be illustrated by the following examples:

Example (1). Corporation X is organized with two classes of common stock, class A and class B. Dividends may be paid in stock or in cash paid on either class of stock without regard to the medium or payment of dividends on the other class. A dividend is declared on the class A stock payable in additional shares of class A stock and a dividend is declared on class B stock payable in newly authorized class C stock which is nonconvertible and limited and preferred as to dividends. Both

the distribution of class A shares and the distribution of new class C shares are distributions to which section 301 applies.

Example (2). Corporation Y is organized with one class of stock, class A common. During the year the corporation declares a dividend on the class A stock payable in newly authorized class B preferred stock which is convertible into class A stock no later than 6 months from the date of distribution at a price that is only slightly higher than the market price of class A stock on the date of distribution. Taking into account the dividend rate, redemption provisions, the marketability of the convertible stock, and the conversion price, it is reasonable to anticipate that within a relatively short period of time some shareholders will exercise their conversion rights and some will not. Since the distribution can reasonably be expected to result in the receipt of preferred stock by some common shareholders and the receipt of common stock by other common shareholders, the distribution is a distribution of property to which section 301 applies.

§ 1.305–5 Distributions on preferred stock.

(a) *In general.* Under section 305(b)(4), a distribution by a corporation of its stock (or rights to acquire its stock) made or deemed made with respect to its preferred stock is treated as a distribution of property to which section 301 applies unless the distribution is made with respect to convertible preferred stock (or securities) to take into account a stock dividend, stock split, or any similar adjustment (such as the sale of stock of the distributing corporation to employees at less than the fair market value) which would otherwise result in the dilution of the conversion right. For purposes of the preceding sentence, an adjustment in the conversion ratio of convertible preferred stock made solely to take into account the distribution by a closed end regulated investment company of a capital gain dividend with respect to the stock into which such stock is convertible shall not be considered a "similar adjustment." The term "preferred stock" includes stock the terms of which require, in all events, periodic distributions with respect to it of stock or rights to acquire stock, provided the corporation has another class of stock outstanding.

(b) *Redemption premium.* (1) If a corporation issues preferred stock which may be redeemed after a specified period of time at a price higher than the issue price, such increase will be considered under the authority of section 305(c) to be a distribution of additional stock on preferred stock which is constructively received by the shareholder over the period of time during which the preferred stock cannot be called for redemption.

(2) Subparagraph (1) of this paragraph shall not apply to the extent that the redemption price is a reasonable call premium and is not a substitute for dividends on such stock. For purposes of the preceding sentence, a redemption premium not in excess of 10 percent of the issue price on stock which is not redeemable for 5 years from the date of issue shall be considered reasonable.

(c) *Examples.* The application of sections 305(b)(4) and 305(c) may be illustrated by the following examples:

Example (1). Corporation R is organized with two classes of stock, class A and class B. The terms of the class B stock require that a distribution of one share of class A stock be made annually with respect to each 20 shares of class B stock. The class A stock is not preferred stock. During the year, the required dividend in class A shares is declared and paid on the class B stock. The class B stock is preferred stock and the distribution of class A shares is a distribution to which section 301 applies.

Example (2). (i) Corporation S is organized with two classes of stock, class A and class B. The class A stock is not preferred as to dividends. The class B stock may be converted, at the option of the holder, into class A stock. During the first year, the conversion ratio is one share of class A stock for each share of class B stock. At the beginning of each subsequent year, the conversion ratio is increased by 0.05 share of class A stock for each share of class B stock. Thus, during the second year the conversion ratio would be 1.05 shares of class A stock for each share of class B stock; during the third year the ratio would be 1.10 shares, etc.

(ii) At the beginning of the second year, when the conversion ratio is increased to 1.05 shares of class A stock for each share of class B stock, a distribution of 0.05 share of class A stock is considered as made with respect to each share of class B stock. The class B stock is preferred stock and the distribution is a distribution to which section 301 applies.

Example (3). Corporation T has 1,000 shares of 8 percent cumulative preferred stock outstanding with a par value of $100 per share. Five hundred shares are owned by J and 500 shares by K. The corporation is 3 years in arrears on its dividends to the preferred shareholders. Pursuant to a recapitalization under section 368(a)(1)(E), each share of preferred stock is exchanged for 1.2 shares of new preferred stock having substantially the same terms as the stock exchanged. Each share of new preferred stock is equal in value to a share of old preferred stock and 0.2 of a share of new preferred stock is equal in value to the amount of dividend arrearages on the old preferred stock. J and K are each considered to have received a distribution on their preferred stock of 100 shares and the distribtuion is a distribution to which section 301 applies.

Example (4). (i) Corporation U has outstanding 1,000 shares of nonvoting, cumulative preferred stock and 10,000 shares of common stock without par value. The preferred stock is entitled to a preferential dividend of $6 per share annually. The corporation is 3 years in arrears on its dividends to the preferred shareholders. The preferred is redeemable by corporation U at any time at $110 per share and is entitled to a $100 preference on liquidation. The fair market value of the preferred and common is, respectively, $90 per share and $12 per share.

(ii) Pursuant to a recapitalization under section 368(a)(1)(E), the preferred shareholders exchange their preferred stock including their right to dividend arrearages on the basis of one old preferred share for one newly authorized class A preferred share and three common shares. The new class A preferred pays an annual preferential dividend of $4 per share noncumulative, is entitled to one vote per share, is convertible into two shares of common stock at any time, is redeemable by corporation U after 5 years from the date of issue at $55 per share, and is entitled to a $50 per share preference in liquidation. The new class A preferred immediately trades on the market after issuance at $55 per share, and the common continues to trade at $12 per share. Section 305(b) does not apply to the transaction and accordingly the stock received by the preferred shareholders is not a distribution to which section 301 applies.

(iii) Assume the same facts as in (i). Pursuant to a recapitalization under section 368(a)(1)(E), the preferred shareholders exchange their preferred stock including their right to dividend arrearages on the basis of one preferred share for 7.5 shares of common stock. The common stock continues to trade on the market for $12 per share. Section 305(b) does not apply to the transaction and accordingly the stock received by the preferred shareholders is not a distribution to which section 301 applies.

Example (5). (i) Corporation A, a publicly held company whose stock is traded on a securities exchange (or in the over-the-counter market) has two classes of stock outstanding, common and preferred. The preferred stock is nonconvertible, limited and preferred as to dividends, and has a fixed liquidation preference. There are no dividend arrearages. At the time of issue of the preferred stock, there was no plan or prearrangement by which it was to be exchanged for common stock. In order to retire the preferred stock, corporation A recapitalizes in a transaction to which section 368(a)(1)(E) applies and the preferred stock is exchanged for common stock. The transaction is not deemed to be a distribution under section 305(c) and sections 305(b) and 301 do not apply to the transaction. The same result would follow if the preferred stock was exchanged for a new preferred stock having substantially the same market value and having no greater call premium or liquidation preference than the old preferred stock but which is convertible into common stock of corporation A at a fixed ratio subject to change solely to take account of stock dividends, stock splits, or similar transactions with respect to the stock into which the preferred stock is convertible.

(ii) Assume the same facts as in (i) except that each share of preferred stock is exchanged for one share of new preferred stock which is substantially identical in all respects to the old preferred stock, plus a share of common. The exchange is deemed to be a distribution under section 305(c) to the preferred shareholders since their proportionate interests in the earnings and profits or assets of the corporation are increased and since such distribution has the effect described in section 305(b)(4). Accordingly, sections 305(b)(4) and 301 apply to the transaction.

Example (6). Corporation V is organized with two classes of stock, 1,000 shares of class A common and 1,000 shares of class B convertible preferred. Each share of class B stock may be converted into two shares of class A stock. Pursuant to a recapitalization under section 368(a)(1)(E), the 1,000 shares of class A stock are surrendered in exchange for 500 shares of new class A common and 500 shares of newly authorized class C common. The conversion right of class B stock is changed to one share of class A stock and one share of class C stock for each share of class B stock. The change in the conversion right is not considered a distribution on preferred stock to which section 301 applies.

Example (7). Corporation X issues preferred stock of $100 per share. The stock is redeemable in 5 years or any time thereafter for $110. The redemption price at no time exceeds 10 percent of the issue price. The increase in the redemption price is not considered a distribution on preferred stock under section 305(b)(4).

Example (8). Corporation W issues preferred stock for $100 per share. The stock pays no dividends but is redeemable in 5 years for $185, with yearly increases thereafter of $15. There are no facts to indicate that a call premium in excess of $10 is reasonable. Since the increase in redemption price over the issue price exceeds the reasonable call premium to the extent of $75, that amount will be deemed to be a substitute for the distribution of dividends on such stock: The shareholder is considered to receive on the last day of each year during the 5-year period, a distribution on his preferred stock in an amount equal to 15 percent of the issue price. Each $15 increase in the redemption price thereafter is considered to be a distribution on the preferred stock at the time each such increase becomes effective.

Example (9). (i) Corporation Y is organized with two classes of stock, class A common and class B convertible preferred. The class B stock is issued for $100 a share and pays no cash dividends. The class B stock may be converted into class A stock during the first year at one share of class A stock for each share of class B stock. On the last day of each year, the conversion ratio is increased by 0.05 share of class A stock for each share of class B stock. The class B stock is redeemable after ten years at a price of $150. There are no facts indicating that a call premium in excess of $10 is reasonable.

(ii) A distribution is deemed to be made on the class B stock each year equal to the greater of (*a*) the fair market value of 0.05 share of class A stock as of the last day of each such year (see example (2) of this paragraph), or (*b*) 4 percent of the issue price (see example (8) of this paragraph).

§ 1.305–6 Distributions of convertible preferred.

(a) *In general.* (1) Under section 305(b)(5), a distribution by a corporation of its convertible preferred stock or rights to acquire such stock made or considered as made with respect to its stock is treated as a distribution of property to which section 301 applies unless the corporation establishes that such distribution will not result in a disproportionate distribution as described in § 1.305–3.

(2) The distribution of convertible preferred stock is likely to result in a disproportionate distribution when both of the following conditions exist: (i) The conversion right must be exercised within a relatively short period of time after the date of distribution of the stock; and (ii) taking into account such factors as the dividend rate, the redemption provisions, the marketability of the convertible stock, and the conversion price, it may be anticipated that some shareholders will exercise their conversion rights and some will not. On the other hand, where the conversion right may be exercised over a period of many years and the dividend rate is consistent with market conditions at the time of distribution of the stock, there is no basis for predicting at what time and the extent to which the stock will be converted and it is unlikely that a disproportionate distribution will result.

(b) *Examples.* The application of section 305(b)(5) may be illustrated by the following examples:

Example (1). Corporation Z is organized with one class of stock, class A common. During the year the corporation declares a dividend on the class A stock payable in newly authorized class B preferred stock which is convertible into class A stock for a period of 20 years from the date of issuance. Assuming dividend rates are normal in light of existing conditions so that there is no basis for predicting the extent to which the stock will be converted, these circumstances will ordinarily be sufficient to establish that a disproportionate distribution will not result since it is impossible to predict the extent to which the class B stock will be converted into class A stock. Accordingly, the distribution of class B stock is not one to which section 301 applies.

Example (2). Corporation X is organized with one class of stock, class A common. During the year the corporation declares a dividend on the class A stock payable in newly authorized redeemable class C preferred stock which is convertible into class A common stock no later than 4 months from the date of distribution at a price slightly higher than the market price of class A stock on the date of distribution. By prearrangement with corporation X, corporation Y, an insurance company, agrees to purchase class C stock from any shareholder who does not wish to convert. By reason of this prearrangement, it is anticipated that the shareholders will either sell the class C stock to the insurance company (which expects to retain the shares for investment purposes) or will convert and not retain the stock. As a result, some of the shareholders exercise their conversion privilege and receive additional shares of class A stock, while other shareholders sell their class C stock to corporation Y and receive cash. The distribution is a distribution to which section 301 applies since it results in the receipt of property by some shareholders and an increase in the proportionate interests of other shareholders.

§ 1.305–7 Certain transactions treated as distributions.

Under section 305(c), a change in conversion ratio, a change in redemption price, a difference between redemption price and issue price, a redemption which is treated as a distribution to which section 301 applies, or any transaction (including a recapitalization) having a similar effect on the interest of any shareholder may be treated as a distribution with respect to any shareholder whose proportionate interest in the earnings and profits or assets of the corporation is increased by such change, difference, redemption, or similar transaction. Thus, in general, such change, difference, redemption, or similar transaction will be treated as a distribution to which sections 305(b) and 301 apply where—

(a) The proportionate interest of any shareholder in the earnings and profits or assets of the corporation deemed to have made such distribution is increased by such change, difference, redemption, or similar transaction; and

(b) The effect of such distribution has the result described in paragraph (2), (3), (4), or (5) of section 305(b).

Where such change, difference, redemption, or similar transaction is treated as a distribution under the provisions of this section, such distribution will be deemed made with respect to any shareholder whose interest in the earnings and profits or assets of the distributing corporation is increased thereby. Such distribution will be deemed to be a distribution of the stock of such corporation made by the corporation to such shareholder with respect to his stock. Depending upon the facts presented, the distribution may be deemed to be made in common or preferred stock. For example, where a redemption price in excess of a reasonable call premium exists with respect to a class of preferred stock and the other requirements of this section are also met, the distribution will be deemed made with respect to such preferred stock, in stock of the same class. Accordingly the preferred shareholders are considered under sections 305(b)(4) and 305(c) to have received a distribution of preferred stock to which section 301 applies. See the examples in §§ 1.305–3(e) and 1.305–5(c) for further illustrations of the application of section 305(c).

§ 1.305–8 Effective dates.

(a) *In general.* Section 421(b) of the Tax Reform Act of 1969 (83 Stat. 615) provides as follows:

(b) *Effective dates.* (1) Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply with respect to distributions (or deemed distributions) made after January 10, 1969, in taxable years ending after such date.

(2) (A) Section 305(b)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to a distribution (or deemed distribution) of stock made before January 1, 1991, with respect to stock (i) outstanding on January 10, 1969, (ii) issued pursuant to a contract binding on January 10, 1969, on the distributing corporation, (iii) which is additional stock of that class of stock which (as of January 10, 1969) had the largest fair market value of all classes of stock of the corporation (taking into account only stock outstanding on January 10, 1969, or issued pursuant to a contract binding on January 10, 1969), (iv) described in subparagraph (C)(iii), or (v) issued in a prior distribution described in clause (i), (ii), (iii), or (iv).

(B) Subparagraph (A) shall apply only if—

(i) The stock as to which there is a receipt of property was outstanding on January 10, 1969 (or was issued pursuant to a contract binding on January 10, 1969, on the distributing corporation), and

(ii) If such stock and any stock described in subparagraph (A)(i) were also outstanding on January 10, 1968, a distribution of property was made on or before January 10, 1969, with respect to such stock, and a distribution of stock was made on or before January 10, 1969, with respect to such stock described in subparagraph (A)(i).

(C) Subparagraph (A) shall cease to apply when at any time after October 9, 1969, the distributing corporation issues any of its stock (other than in a distribution of stock with respect to stock of the same class) which is not—

(i) Nonconvertible preferred stock,

(ii) Additional stock of that class of stock which meets the requirements of subparagraph (A)(iii), or

(iii) Preferred stock which is convertible into stock which meets the requirements of subparagraph (A)(iii) at a fixed conversion

ratio which takes account of all stock dividends and stock splits with respect to the stock into which such convertible stock is convertible.

(D) For purposes of this paragraph, the term "stock" includes rights to acquire such stock.

(3) In cases to which Treasury Decision 6990 (promulgated January 10, 1969) would not have applied, in applying paragraphs (1) and (2) April 22, 1969, shall be substituted for January 10, 1969.

(4) Section 305(b)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any distribution (or deemed distribution) with respect to preferred stock (including any increase in the conversation ratio of convertible stock) made before January 1, 1991, pursuant to the terms relating to the issuance of such stock which were in effect on January 10, 1969.

(5) With respect to distributions made or considered as made after January 10, 1969, in taxable years ending after such date, to the extent that the amendment made by subsection (a) does not apply by reason of paragraph (2), (3), or (4) of this subsection, section 305 of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a)) shall continue to apply.

(b) *Rules of application.* (1) The rules contained in section 421(b)(2) of the Tax Reform Act shall apply with respect to the application of the following sections of the Code: (i) Section 305(b)(2); and (ii) section 305(b)(5), to the extent that section requires a determination as to whether a distribution will have the result described in section 305(b)(2). For example, section 305(b)(5) of the Code will not apply to a distribution of convertible preferred stock made before January 1, 1991, with respect to stock outstanding on January 10, 1969 (or which was issued pursuant to a contract binding on the distributing corporation on January 10, 1969), provided the distribution is pursuant to the terms relating to the issuance of such stock which were in effect on January 10, 1969.

(2) Except as provided in subparagraph (3) of this paragraph, for purposes of section 421(b)(2) of the Tax Reform Act of 1969 (83 Stat. 615), stock is considered as outstanding on January 10, 1969, if it could be acquired on such date or some future date by the exercise of a right in existence on such date. For purposes of the preceding sentence, common stock will also be considered outstanding on January 10, 1969, if (i) an option to which section 422 or 423 of the Code applies was granted to acquire such stock prior to [the date of the publication of this notice in the FEDERAL REGISTER]; (ii) such option was granted pursuant to a plan which had been adopted by, and approved by the shareholders of, the granting corporation on or before January 10, 1969; and (iii) such option was not modified, extended, for renewed, within the meaning of section 425(h), subsequent to such date. In addition, stock will be considered as outstanding on January 10, 1969, if it is issued pursuant to a conversion privilege contained in stock issued, mediately or immediately, as a stock dividend with respect to stock outstanding on such date. Thus, if, on January 10, 1969, there is outstanding a class of stock ("class A") that is convertible into another class ("class B"), then all class B stock that could be acquired by exercise of the conversion privilege, as well as all class B stock issued pursuant to the exercise of conversion privileges contained in class A stock issued, mediately or immediately, as stock dividends with respect to class A stock outstanding on such date, is considered as outstanding on January 10, 1969.

(3) Subparagraph (2) of this paragraph does not apply in determining, for purposes of section 421(b)(2)(A)(iii) of the Tax Reform Act of 1969, that class of stock which as of January 10, 1969, had the largest fair market value of all classes of stock of the corporation.

(4) Stock issued after January 10, 1969, and before October 10, 1969, and stock described in section 421(b)(2)(C)(i), (ii), or (iii) of the Tax Reform Act of 1969 shall not be taken into account for purposes of applying section 421(b)(2)(B)(i) of such Act.

(5) Under section 421(b)(4) of the Tax Reform Act of 1969 (83 Stat. 616), section 305(b)(4) does not apply to any distribution (or deemed distribution) by a corporation with respect to preferred stock made before January 1, 1991, if such distribution is pursuant to the terms relating to the issuance of such stock which were in effect on January 10, 1969. For example, if as of January 10, 1969, a corporation had followed the practice of paying stock dividends on preferred stock (or of periodically increasing the conversion ratio of convertible preferred stock) or if the preferred stock provided for a redemption price in excess of the issue price, then any distribution of stock made (or which would be considered made if section 305(b)(4) applied) before January 1, 1991, pursuant to such practice is not taxable under section 301.

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[26 CFR Parts 1, 13, 31]

TREATMENT OF PAYMENTS FOR EXPENSES OF MOVING FROM ONE RESIDENCE TO ANOTHER RESIDENCE

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

The following regulations are hereby prescribed in order to conform the Income Tax Regulations (26 CFR Part 1) and the Employment Tax Regulations (26 CFR Part 31) to the amendments made by section 231 of the Tax Reform Act of 1969 (83 Stat. 577) and section 2 of Public Law 91-642 (84 Stat. 1880). The regulations set forth below supersede Part 13 of the regulations in this chapter, temporary income tax regulations relating to treatment of payments of expenses of moving from one residence to another residence (26 CFR Part 13). Section 1.217-2(g) of the regulations supersedes the provisions of T.D. 7032, approved March 11, 1970 (35 F.R. 4330) as they apply to elections under section 231(d)(2) of the Tax Reform Act of 1969 (83 Stat. 580).

INCOME TAX REGULATIONS
(26 CFR PART 1)

PARAGRAPH 1. There are inserted after § 1.79-3 the following new sections:

§ 1.82 Statutory provisions; reimbursement for expenses of moving.

SEC. 82. *Reimbursement for expenses of moving.* There shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one residence to another residence which is attributable to employment or self-employment.

[Sec. 82 as added by sec. 231(b), Tax Reform Act 1969 (83 Stat. 579)]

§ 1.82-1 Payments for or reimbursements of expenses of moving from one residence to another residence attributable to employment or self-employment.

(a) *Reimbursements in gross income*—(1) *In general.* Any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one residence to another residence attributable to employment or self-employment is includible in gross income under section 82 as compensation for services in the taxable year received or accrued. For rules relating to the year a deduction may be allowed for expenses of moving from one residence to another residence, see section 217 and the regulations thereunder.

(2) *Amounts received or accrued as reimbursement or payment.* For purposes of this section, amounts are considered as being received or accrued by an individual as reimbursement or payment whether received in the form of money, property, or services. Thus, if an employer moves an employee's household goods and personal effects from the employee's old residence to his new residence using the employer's facilities, the employee is considered as having received a reimbursement in the amount of the fair market value of the services furnished at the time the services are furnished by the employer. On the other hand, if the employer pays a mover for moving the employee's household goods and personal effects, the employee is considered as having received the reimbursement at the time the employer pays the mover, rather than at the time the mover moves the employee. Also, if an employer in order to reimburse an employee for a loss on a sale of a house acquires the property from the employee at a price in excess of fair market value, the employee is considered to have received a reimbursement or payment to the extent that such reimbursement or payment exceeds the fair market value of the property. Where an employee receives a loan or advance from an employer to enable him to pay his moving expenses, the employee will not be deemed to have received a reimbursement of moving expenses until such time as he accounts to his employer if he is required to replay such loan or advance or make such accounting within a reasonable time. Such loan or advance will be deemed to be a reimbursement of moving expenses at the time of such accounting to the extent the employee accounts for such moving expenses.

(3) *Direct or indirect payments or reimbursements.* For purposes of this section amounts are considered as being received or accrued whether received directly (paid to an individual by an employer, a client, a customer, or similar person) or indirectly (paid to a third party on behalf of an individual by an employer, a client, a customer, or similar person). Thus, if an employer pays a mover for the expenses of moving an employee's household goods and personal effects from one residence to another residence, the employee has indirectly received a payment which is includible in his gross income under section 82.

(4) *Expenses of moving from one residence to another residence.* An expense of moving from one residence to another residence is any expenditure, cost, loss, or similar item paid or incurred in connection with a move from one residence to another residence. Such expenses include items described in section 217(b) (relating to the definition of moving expenses), irrespective of the dollar limitations contained in section 217(b)(3) and the conditions contained in section 217(c), as well as items not described in section 217(b), such as a loss sustained on the sale or exchange of personal property.

(5) *Attributable to employment or self-employment.* Any amount received or accrued from an employer, a client, a customer, or similar person in connection with the performance of services for such employer, client, customer, or other similar person, is attributable to employment or self-employment. Thus, for example, if an employer reimburses an employee for a loss incurred on the sale of the employee's house, reimbursement is attributable to the performance of services if made because of the employer-employee relationship.

(b) *Effective date*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, paragraph (a) of this section is applicable only to amounts received or accrued in taxable years beginning after December 31, 1969.

(2) *Election with respect to payments or reimbursements for expenses paid or incurred before July 1, 1970.* Paragraph (a) of this section does not apply with respect to moving expenses paid or incurred before July 1, 1970, in connection with the commencement of work by such taxpayer as an employee at a new principal place of work where such taxpayer had been notified by his employer on or before December 19, 1969, of such move and a taxpayer makes an election under paragraph (g) of § 1.217–2.

PAR. 2. Section 1.217 is amended by revising section 217 and by revising the historical note to read as follows:

§ 1.217 Statutory provisions; moving expenses.

SEC. 217. *Moving expenses*—(a) *Deduction allowed.* There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work.

(b) *Definition of moving expenses*—(1) *In general.* For purposes of this section, the term "moving expenses" means only the reasonable expenses—

(A) Of moving household goods and personal effects from the former residence to the new residence,

(B) Of traveling (including meals and lodging) from the former residence to the new place of residence,

(C) Of traveling (including meals and lodging), after obtaining employment, from the former residence to the general location of the new principal place of work and return, for the principal purpose of searching for a new residence,

(D) Of meals and lodging while occupying temporary quarters in the general location of the new principal place of work during any period of 30 consecutive days after obtaining employment, or

(E) Constituting qualified residence sale, purchase, or lease expenses.

(2) *Qualified residence sale, etc., expenses.* For purposes of paragraph (1)(E), the term "qualified residence sale, purchase, or lease expenses" means only reasonable expenses incident to—

(A) The sale or exchange by the taxpayer or his spouse of the taxpayer's former residence (not including expenses for work performed on such residence in order to assist in its sale) which (but for this subsection and subsection (e)) would be taken into account in determining the amount realized on the sale or exchange,

(B) The purchase by the taxpayer or his spouse of a new residence in the general location of the new principal place of work which (but for this subsection and subsection (e)) would be taken into account in determining—

(i) The adjusted basis of the new residence, or

(ii) The cost of a loan (but not including any amounts which represent payments or prepayments of interest),

(C) The settlement of an unexpired lease held by the taxpayer or his spouse on property used by the taxpayer as his former residence, or

(D) The acquisition of a lease by the taxpayer or his spouse on property used by the taxpayer as his new residence in the general location of the new principal place of work (not including amounts which are payments or prepayments of rent).

(3) *Limitations*—(A) *Dollar limits.* The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,000. The aggregate amount allowable as a deduction under subsection (a) which is attributable to qualified residence sale, purchase, or lease expenses shall not exceed $2,500, reduced by the aggregate amount so allowable which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1).

(B) *Husband and wife.* If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only one commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$500" for "$1,000", and by substituting "$1,250" for "$2,500".

(C) *Individuals other than taxpayer.* In the case of any individual other than the taxpayer, expenses referred to in subparagraphs (A) through (D) of paragraph (1) shall be taken into account only if such individual has both the former residence and the new residenec as his principal place of abode and is a member of the taxpayer's household.

(c) *Conditions for allowance.* No deduction shall be allowed under this section unless—

(1) The taxpayer's new principal place of work—

(A) Is at least 50 miles farther from his former residence than was his former principal place of work, or

(B) If he had no former principal place of work, is at least 50 miles from his former residence, and

(2) Either—

(A) During the 12-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at least 39 weeks, or

(B) During the 24-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at least 78 weeks, of which not less than 39 weeks are during the 12-month period referred to in subparagraph (A).

For purposes of paragraph (1), the distance between two points shall be the shortest of the more commonly traveled routes between such two points.

(d) *Rules for application of subsection (c)(2).* (1) The condition of subsection (c)(2) shall not apply if the taxpayer is unable to satisfy such condition by reason of—

(A) Death or disability, or

(B) Involuntary separation (other than for willful misconduct) from the service of, or transfer for the benefit of, an employer after obtaining full-time employment in which the taxpayer could reasonably have been expected to satisfy such condition.

(2) If a taxpayer has not satisfied the condition of subsection (c)(2) before the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which he paid or incurred moving expenses which would otherwise be deductible under this section, but may still satisfy such condition, then such expenses may (at the election of the taxpayer) be deducted for such taxable year notwithstanding subsection (c)(2).

(3) If—

(A) For any taxable year moving expenses have been deducted in accordance with the rule provided in paragraph (2), and

(B) The condition of subsection (c)(2) cannot be satisfied at the close of a subsequent taxable year,

then an amount equal to the expenses which were so deducted shall be included in gross income for the first such subsequent taxable year.

(e) *Denial of double benefit.* The amount realized on the sale of the residence described in subparagraph (A) of subsection (b)(2) shall not be decreased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subsection (a), and the basis of a residence described in subparagraph (B) of subsection (b)(2) shall not be increased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subsection (a). This subsection shall not apply to any expenses with respect to which an amount is included in gross income under subsection (d)(3).

(f) *Rules for self-employed individuals*—(1) *Definition.* For purposes of this section, the term "self-employed individual" means an individual who performs personal services—

(A) As the owner of the entire interest in an unincorporated trade or business, or

(B) As a partner in a partnership carrying on a trade or business.

(2) *Rule for application of subsections (b)(1)(C) and (D).* For purposes of subparagraphs (C) and (D) of subsection (b)(1), an individual who commences work at a new principal place of work as a self-employed individual shall be treated as having obtained employment when he has made substantial arrangements to commence such work.

(g) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

[Sec. 217 as added by sec. 213(a)(1), Rev. Act 1964 (78 Stat. 50); as amended by sec. 231(a) Tax Reform Act 1969 (83 Stat. 577)]

PAR. 3. Section 1.217–1 is amended by revising the heading and paragraph (a)(1) thereof to read as follows:

§ 1.217–1 Deduction for moving expenses paid or incurred in taxable years beginning before January 1, 1970.

(a) *Allowance of deduction*—(1) *In general.* Section 217(a) allows a deduction from gross income for moving expenses paid or incurred by the taxpayer during the taxable year in connection with the commencement of work as an employee at a new principal place of work. Except as provided in section 217, no deduction is allowable for any expenses incurred by the taxpayer in connection with moving himself, the members of his family or household, or household goods and personal effects. The deduction allowable under this section is only for expenses incurred after December 31, 1963, in taxable years ending after such date and beginning before January 1, 1970, except in cases where a taxpayer makes an election under paragraph (g) of § 1.217–2 with respect to moving expenses paid or incurred before January 1, 1971, in connection with the commencement of work by such taxpayer as an employee at a new principal place of work of which such taxpayer has been notified by his employer on or before December 19, 1969. To qualify for the deduction the expenses must meet the definition of the term "moving expenses" provided in section 217(b); the taxpayer must meet the conditions set forth in section 217(c); and, if the taxpayer receives a reimbursement or other expense allowance for an item of expense, the deduction for the portion of the expense reimbursed is allowable only to the extent that such reimbursement or other expense allowance is included in his gross income as provided in section 217(e). The deduction is allowable only to a taxpayer who pays or incurs moving expenses in connection with his commencement of work as an employee and is not allowable to a taxpayer who pays or incurs such expenses in connection with his commencement of work as a self-employed individual. The term "employee" as used in this section has the same meaning as in § 31.3401(c)–1 of this chapter (Employment Tax Regulations). All references to section 217 in this section are to section 217 prior to the effective date of section 231 of the Tax Reform Act of 1969 (83 Stat. 577).

* * * * *

PAR. 4. There is inserted immediately after § 1.217–1 the following new section:

§ 1.217–2 Deduction for moving expenses paid or incurred in taxable years beginning after December 31, 1969.

(a) *Allowance of deduction*—(1) *In general.* Section 217(a) allows a deduction from gross income for moving expenses paid or incurred by the taxpayer during the taxable year in connection with his commencement of work as an employee or as a self-employed individual at a new principal place of work. Expenses are considered as being paid or incurred whether a reimbursement or payment is received directly (paid to the taxpayer by an employer, a client, a customer, or similar person) or indirectly (paid to a third party on behalf of the taxpayer by an employer, a client, a customer, or similar person). No deduction is allowable under section 162 for any expenses incurred by the taxpayer in connection with moving from one residence to another residence unless such expenses are deductible by reason of facts and circumstances other than a change in the principal place of work. To qualify for the deduction under section 217 the expenses must meet the definition of the term "moving expenses" provided in section 217(b) and the taxpayer must meet the conditions set forth in section 217(c). The term "employee" as used in this section has the same meaning as in § 31.3401(c)–1 of this chapter (Employment Tax Regulations). The term "self-employed individual" as used in this section is defined in paragraph (f)(1) of this section.

(2) *Expenses paid in a taxable year other than the taxable year in which reimbursement representing such expenses is received.* In general, moving expenses are deductible in the year paid or incurred. If a taxpayer who uses the cash receipts and disbursements method of accounting receives reimbursement for a moving expense in a taxable year other than the taxable year the taxpayer pays such expense, he may elect to deduct such expense in the taxable year that he receives such reimbursement, rather than the taxable year when he paid such expense in any case where—

(i) The expense is paid in a taxable year prior to the taxable year in which the reimbursement is received, or

(ii) The expense is paid in the taxable year immediately following the taxable year in which the reimbursement is received, provided that such expense is paid on or before the due date prescribed for filing the return (determined with regard to any extension of time for such filing) for the taxable year in which the reimbursement is received.

An election to deduct moving expenses in the taxable year that the reimbursement is received shall be made by claiming the deduction on the return, amended return, or claim for refund for the taxable year in which the reimbursement is received.

(3) *Commencement of work.* To be deductible, the moving expenses must be paid or incurred by the taxpayer in connection with his commencement of work at a new principal place of work (see paragraph (c)(3) of this section for a discussion of the term "principal place of work"). While it is not necessary for the taxpayer to have made arrangements to work prior to his moving to a new location, the deduction is not allowable unless employment or self-employment actually does occur. The term "commencement" includes (i) the beginning of work by a taxpayer as an employee or as a self-employed individual for the first time or after a substantial period of unemployment or part-time employment, (ii) the beginning of work by a taxpayer for a different employer or in the case of a self-employed individual in a new trade or business, or (iii) the beginning of work by a taxpayer for the same employer or in the case of a self-employed individual in the same trade or business at a new location. To qualify as being in connection with the commencement of work, the move must bear a reasonable proximity both in time and place to such commencement at the new principal place of work. In general, moving expenses incurred within 1 year of the date of the commencement of work are considered to be reasonably proximate in

time to such commencement. Moving expenses generally are not considered to be reasonably proximate in place to the commencement of work at the new principal place of work where the distance between the taxpayer's new residence and his new principal place of work exceeds the distance between his former residence and his new principal place of work. Thus, for example, assume A is transferred by his employer to a new principal place of work and the distance between his former residence and his new principal place of work is 50 miles greater than was the distance between his former residence and his former principal place of work. However, the distance between his new residence and his new principal place of work is 10 miles greater than was the distance between his former residence and his new principal place of work. Although the minimum distance requirement of section 217(c)(1) is met the expenses of moving to the new residence are not considered as incurred in connection with A's commencement of work at his new principal place of work since the new residence is not proximate in place to the new place of work. If, however, A is required to live at such residence as a condition of employment or if living at such residence will result in an actual decrease in commuting time or expense, the expenses of the move may be considered as incurred in connection with the commencement of work at the new principal place of work.

(b) *Definition of moving expenses*—(1) *In general.* Section 217(b) defines the term "moving expenses" to mean only the reasonable expenses (i) of moving household goods and personal effects from the taxpayer's former residence to his new residence, (ii) of traveling (including meals and lodging) from the taxpayer's former residence to his new place of residence, (iii) of traveling (including meals and lodging), after obtaining employment, from the taxpayer's former residence to the general location of his new principal place of work and return, for the principal purpose of searching for a new residence, (iv) of meals and lodging while occupying temporary quarters in the general location of the new principal place of work during any period of 30 consecutive days after obtaining employment, or (v) of a nature constituting qualified residence sale, purchase, or lease expenses. Thus, the test of deductibility is whether the expenses are reasonable and are incurred for the items set forth in subdivisions (i) through (v) of this subparagraph.

(2) *Reasonable expenses.* (i) The term "moving expenses" includes only those expenses which are reasonable under the circumstances of the particular move. Expenses paid or incurred in excess of a reasonable amount are not deductible. Generally, expenses paid or incurred for movement of household goods and personal effects or for travel (including meals and lodging) are reasonable only to the extent that they are paid or incurred for such movement or travel by the shortest and most direct route available from the former residence to the new residence by the conventional mode or modes of transportation actually used and in the shortest period of time commonly required to travel the distance involved by such mode. Thus, if moving or travel arrangements are made to provide a circuitous route for scenic, stopover, or other similar reasons, additional expenses resulting therefrom are not deductible since they are not reasonable nor related to the commencement of work at the new principal place of work. In addition, expenses paid or incurred for meals and lodging while traveling from the former residence to the new place of residence or to the general location of the new principal place of work and return or occupying temporary quarters in the general location of the new principal place of work are reasonable only if under the facts and circumstances involved such expenses are not lavish or extravagant.

(ii) The application of this subparagraph may be illustrated by the following example:

Example. A, an employee of the M Company works and maintains his residence in Boston, Mass. Upon receiving orders from his employer that he is to be transferred to M's Los Angeles, Calif., office, A motors to Los Angeles with his family with stopovers at various cities between Boston and Los Angeles to visit friends and relatives. In addition, A detours into Mexico for sightseeing. Because of the stopovers and tour into Mexico, A's travel time and distance are increased over what they would have been had he proceeded directly to Los Angeles. To the extent that A's route of travel between Boston and Los Angeles is in a generally southwesterly direction it may be said that he is traveling by the shortest and most direct route available by motor vehicle. Since A's excursion into Mexico is away from the usual Boston-Los Angeles route, the portion of the expenses paid or incurred attributable to such excursion is not deductible. Likewise, that portion of the expenses attributable to A's delay en route in visiting personal friends and sightseeing are not deductible.

(3) *Expenses of moving household goods and personal effects.* Expenses of moving household goods and personal effects include expenses of transporting such goods and effects from the taxpayer's former residence to his new residence, and expenses of packing, crating, and in-transit storage and insurance for such goods and effects. Expenses paid or incurred in moving household goods and personal effects to the taxpayer's new residence from a place other than his former residence are allowable, but only to the extent that such expenses do not exceed the amount which would be allowable had such goods and effects been moved from the taxpayer's former residence. Expenses of moving household goods and personal effects do not include, for example, storage charges (other than in-transit), costs incurred in the acquisition of property, costs incurred and losses sustained in the disposition of property, penalties for breaking leases, mortgage penalties, expenses of refitting rugs or draperies, expenses of connecting or disconnecting utilities, losses sustained on the disposal of memberships in clubs, tuition fees, and similar items. The above expenses may, however, be described in other provisions of section 217(b) and if so a deduction may be allowed for them.

(4) *Expenses of traveling from the former residence to the new place of residence.* Expenses of traveling from the former residence to the new place of residence include the cost of transportation and of meals and lodging en route (including the date of arrival) from the taxpayer's former residence to his new place of residence. The date of arrival is the day the taxpayer secures lodging at the new place of residence, even if on a temporary basis. Expenses of traveling from the taxpayer's former residence to his new place of residence do not include, for example, living or other expenses following the date of arrival at the new place of residence and while waiting to enter the new residence or waiting for household goods to arrive, expenses in connection with house or apartment hunting, living expenses preceding the date of departure for the new place of residence, expenses of trips for purposes of selling property, expenses of trips to the former residence by the taxpayer pending the move by his family to the new place of residence, or any allowance for depreciation. The above expenses may, however, be described in other provisions of section 217(b) and if so a deduction may be allowed for them. The deduction for traveling expenses from the former residence to the new place of residence is allowable for only one trip made by the taxpayer and members of his household; however, it is not necessary that the taxpayer and all members of his household travel together or at the same time.

(5) *Expenses of traveling for the principal purpose of looking for a new residence.* Expenses of traveling, after obtaining employment, from the former residence to the general location of the new principal place of work and return, for the principal purpose of searching for a new residence include the cost of transportation and meals and lodging during such travel and while at the general location of the new place of work for the principal purpose of searching for a new residence. However, such expenses do not include, for example, expenses of meals and lodging of the taxpayer and members of his household before departing for the new principal place of work, expenses for trips for purposes of selling property, expenses of trips to the former residence by the taxpayer pending the move by his family to the place of residence, or any allowance for depreciation. The above expenses may, however, be described in other provisions of section 217(b) and if so a deduction may be allowed for them. The deduction for expenses of traveling for the principal purpose of looking for a new residence is not limited to any number of trips by the taxpayer and by members of his household. In addition, the taxpayer and all members of his household need not travel together or at the same

time. Moreover, a trip need not result in acquisition of a lease of property or purchase of property. An employee is considered to have obtained employment in the general location of the new principal place of work after he has obtained a contract or agreement of employment. A self-employed individual is considered to have obtained employment when he has made substantial arrangements to commence work at the new principal place of work (see paragraph (f)(2) of this section for a discussion of the term "made substantial arrangements to commence to work").

(6) *Expenses of occupying temporary quarters.* Expenses of occupying temporary quarters include only the cost of meals and lodging while occupying temporary quarters in the general location of the new principal place of work during any period of 30 consecutive days after the taxpayer has obtained employment in such general location. Thus, expenses of occupying temporary quarters do not include, for example, the cost of entertainment, laundry, transportation, or other personal, living family expenses, or expenses of occupying temporary quarters in the general location of the former place of work. The 30 consecutive day period is any one period of 30 consecutive days which can begin, at the option of the taxpayer, on any day after the day the taxpayer obtains employment in the general location of the new principal place of work.

(7) *Qualified residence sale, purchase, or lease expenses.* Qualified residence sale, purchase, or lease expenses (hereinafter "qualified real estate expenses") are only reasonable amounts paid or incurred for any of the following purposes:

(i) Expenses incident to the sale or exchange by the taxpayer or his spouse of the taxpayer's former residence which, but for section 217 (b) and (e), would be taken into account in determining the amount realized on the sale or exchange of the residence. These expenses include real estate commissions, attorneys' fees, title fees, escrow fees, and similar expenses paid or incurred in connection with the sale or exchange. No deduction, however, is permitted for the cost of physical improvements intended to enhance salability by improving the condition or appearance of the residence.

(ii) Expenses incident to the purchase by the taxpayer or his spouse of a new residence in the general location of the new principal place of work which, but for section 217 (b) and (e), would be taken into account in determining either the adjusted basis of the new residence or the cost of a loan. These expenses include attorneys' fees, escrow fees, appraisal fees, title costs, so-called "points" or loan placement charges not representing payments or prepayments of interest, and similar expenses paid or incurred in connection with the purchase of the new residence. No deduction, however, is permitted under section 217 and this section for any portion of real estate taxes or insurance, so-called "points" or loan placement charges which are, in essence, prepayments of interest, or the purchase price of the residence.

(iii) Expenses incident to the settlement of an unexpired lease held by the taxpayer or his spouse on property used by the taxpayer as his former residence. These expenses include consideration paid to a lessor to obtain a release from a lease, attorneys' fees, real estate commissions, or similar expenses incident to obtaining a release from a lease or to obtaining an assignee or a sublessee such as the difference between rent paid under a primary lease and rent received under a sublease. No deduction, however, is permitted for the cost of physical improvements intended to enhance marketability of the leasehold by improving the condition or appearance of the residence.

(iv) Expenses incident to the acquisition of a lease by the taxpayer or his spouse. These expenses include the cost of fees or commissions for obtaining a lease, a sublease, or an assignment of an interest in property used by the taxpayer as his new residence in the general location of the new principal place of work. No deduction, however, is permitted for payments or prepayments of rent or payments representing the cost of a security or other similar deposit.

Qualified real estate expenses do not include losses sustained on the disposition of property or mortgage penalties.

(8) *Residence.* The term "former residence" refers to the taxpayer's principal residence before his departure for his new principal place of work. The term "new residence" refers to the taxpayer's principal residence within the general location of his new principal place of work. Thus, neither term includes other residences owned or maintained by the taxpayer or members of his family or seasonal residences such as a summer beach cottage. Whether or not property is used by the taxpayer as his principal residence depends upon all the facts and circumstances in each case. Property used by the taxpayer as his principal residence may include a houseboat, a house-trailer, or similar dwelling. The term "new place of residence" generally includes the area within which the taxpayer might reasonably be expected to commute to his new principal place of work.

(9) *Dollar limitations.* (i) Expenses described in subparagraphs (a) and (B) of section 217(b)(1) are not subject to an overall dollar limitation. Thus, assuming all other requirements of section 217 are satisfied, a taxpayer who, in connection with his commencement of work at a new principal place of work, pays or incurs reasonable expenses of moving household goods and personal effects from his former residence to his new place of residence and reasonable expenses of traveling, including meals and lodging, from his former residence to his new place of residence is permitted to deduct the entire amount of these expenses.

(ii) Expenses described in subparagraphs (C), (D), and (E) of section 217(b)(1) are subject to an overall dollar limitation for each commencement of work of $2,500 of which the expenses described in subparagraphs (C) and (D) of section 217(b)(1) cannot exceed $1,000. The dollar limitation applies to the amount of expenses paid or incurred in connection with each commencement of work and not to the amount of expenses paid or incurred in each taxable year. Thus, for example, a taxpayer who paid or incurred $2,000 of expenses described in subparagraphs (C), (D), and (E) of section 217(b)(1) in taxable year 1971 in connection with his commencement of work at a principal place of work and paid or incurred an additional $2,000 of such expenses in taxable year 1972 in connection with the same commencement of work is permitted to deduct the $2,000 of such expenses paid or incurred in taxable year 1971 and only $500 of such expenses paid or incurred in taxable year 1972.

(iii) A taxpayer who pays or incurs expenses described in subparagraphs (C), (D), and (E) of section 217(b)(1) in connection with the same commencement of work may choose to deduct any combination of such expenses within the dollar amounts specified in subdivision (ii) of this subparagraph. For example, a taxpayer who pays or incurs such expenses in connection with the same commencement of work may either choose to deduct: (*a*) Expenses described in subparagraphs (C) and (D) of section 217(b)(1) to the extent of $1,000 before deducting any of the expenses described in subparagraph (E) of such section, or (*b*) expenses described in subparagraph (E) of section 217(b)(1) to the extent of $2,500 before deducting any of the expenses described in subparagraphs (C) and (D) of such section.

(iv) For the purpose of computing the dollar limitation contained in subparagraph (A) of section 217(b)(3) a commencement of work by a taxpayer and the commencement of work by his spouse in the same general location constitute a single commencement of work.

(v) Where a husband and wife file separate returns, the expenses described in subparagraph (C), (D), or (E) of section 217(b)(1) are subject to an overall dollar limitation of $1,250 per move of which the expenses described in subparagraphs (C) and (D) of section 217(b)(1) cannot exceed $500 per move with respect to each return. Where moving expenses are paid or incurred in more than one taxable year with respect to a single commencement of work by a husband and wife they shall, for purposes of applying the dollar limitations to such move, be subject to a $2,500 and $1,000 limitation for all such years that they file a joint return and shall be subject to a separate $1,250 and $500 limitation for all such years that they file separate returns. If a joint return is filed for the first taxable year moving expenses are paid or incurred with respect to a move but separate returns are filed in a subsequent year, the unused portion of the amount which may be deducted shall be allocated equally between the husband

and wife in the later year. If separate returns are filed for the first taxable year such moving expenses are paid or incurred but a joint return is filed in a subsequent year, the deductions claimed on their separate returns shall be aggregated for purposes of determining the unused portion of the amount which may be deducted in the later year.

(vi) The application of subdivision (v) of this subparagraph may be illustrated by the following example:

Example. A, who was transferred by his employer, effective January 15, 1971, moved from Boston, Mass., to New York, N.Y. A's wife was not employed in either Boston or New York. A and his wife file separate returns for taxable year 1971. A is permitted to deduct up to $1,250 of the expenses described in subparagraphs (C), (D), and (E) of section 217(b)(1) of which the expenses described in subparagraphs (C) and (D) of such section cannot exceed $500. A's wife is not permitted to deduct any of the expenses described in subparagraphs (C), (D), and (E) of section 217(b)(1) paid or incurred by A in connection with his commencement of work at a new principal place of work.

(10) *Individuals other than taxpayer.* (i) In addition to the expenses set forth in subparagraphs (A) through (D) of section 217(b)(1) attributable to the taxpayer alone, the same type of expenses attributable to certain individuals other than the taxpayer, if paid or incurred by the taxpayer, are deductible. These other individuals must be members of the taxpayer's household, and have both the taxpayer's former residence and his new residence as their principal place of abode. A member of the taxpayer's household includes any individual residing at the taxpayer's residence who is not a tenant or an employee of the taxpayer. Thus, for example, a member of the taxpayer's household may not be an individual such as a servant, governess, chauffeur, nurse, valet, or personal attendant.

(ii) In addition to the expenses set forth in section 217(b)(2) paid or incurred by the taxpayer attributable to property sold, purchased, or leased by the taxpayer alone, the same type of expenses paid or incurred by the taxpayer attributable to property sold, purchased, or leased by the taxpayer's spouse or by the taxpayer and his spouse are deductible providing such property is used by the taxpayer as his principal place of residence.

(c) *Conditions for allowance*—(1) *In general.* Section 217(c) provides two conditions which must be satisfied in order for a deduction of moving expenses to be allowed under section 217(a). The first is a minimum distance condition prescribed by section 217(c)(1), and the second is a minimum period of employment condition prescribed by section 217(c)(2).

(2) *Minimum distance.* For purposes of applying the minimum distance condition of section 217(c)(1) all taxpayers are divided into one or the other of the following categories: Taxpayers having a former principal place of work, and taxpayers not having a former principal place of work. Included in this latter category are individuals who are seeking fulltime employment for the first time either as an employee or on a self-employed basis (for example, recent high school or college graduates), or individuals who are reentering the labor force after a substantial period of unemployment or part-time employment.

(i) In the case of a taxpayer having a former principal place of work, section 217(c)(1)(A) provides that no deduction is allowable unless the distance between the former residence and the new principal place of work exceeds by at least 50 miles the distance between the former residence and the former principal place of work.

(ii) In the case of a taxpayer not having a former principal place of work, section 217(c)(1)(B) provides that no deduction is allowable unless the distance between the former residence and the new principal place of work is at least 50 miles.

(iii) For purposes of measuring distances under section 217(c)(1) the distance between two geographic points is measured by the shortest of the more commonly traveled routes between such points. The shortest of the more commonly traveled routes refers to the line of travel and the mode or modes of transportation commonly used to go between two geographic points comprising the shortest distance between such points irrespective of the route used by the taxpayer.

(3) *Principal place of work.* (i) A taxpayer's "principal place of work" usually is the place where he spends most of his working time. The principal place of work of a taxpayer who performs services as an employee is his employer's plant, office, shop, store, or other property. The principal place of work of a taxpayer who is self-employed is the plant, office, shop, store, or other property which serves as the center of his business activities. However, a taxpayer may have a principal place of work even if there is no one place where he spends a substantial portion of his working time. In such case, the taxpayer's principal place of work is the place where his business activities are centered—for example, because he reports there for work, or is required either by his employer or the nature of his employment to "base" his employment there. Thus, while a member of a railroad crew may spend most of his working time aboard a train, his principal place of work is his home terminal, station, or other such central point where he reports in, checks out, or receives instructions. The principal place of work of a taxpayer who is employed by a number of employers on a relatively short-term basis and secures employment by means of a union hall system (such as a construction or building trades worker) would be the union hall.

(ii) Where a taxpayer has more than one employment (i.e., the taxpayer is employed by more than one employer, or is self-employed in more than one trade or business, or is an employee and is self-employed at any particular time) his principal place of work is determined with reference to his principal employment. The location of a taxpayer's principal place of work is a question of fact determined on the basis of the particular circumstances in each case. The more important factors to be considered in making this determination are (*a*) the total time ordinarily spent by the taxpayer at each place, (*b*) the degree of the taxpayer's business activity at each place, and (*c*) the relative significance of the financial return to the taxpayer from each place.

(iii) Generally, for purposes of this section, a place of work will not be considered a principal place of work where inconsistent positions are maintained with respect to deduction of expenses incurred in connection with such place of work. If the taxpayer claims a deduction for expenses of meals and lodging while away from home (incurred in the general location of the new principal place of work) under section 162 (relating to trade or business expenses) and also claims a deduction under this section for moving expenses incurred in connection with the commencement of work at such place of work, it will be a question of facts and circumstances as to which deduction, if any, he will be allowed.

(4) *Minimum period of employment.* (i) Under section 217(c)(2) no deduction is allowed unless—

(*a*) Where a taxpayer is an employee, during the 12-month period immediately following his arrival in the general location of the new principal place of work, he is a full-time employee, in such general location, during at least 39 weeks, or

(*b*) Where a taxpayer is a self-employed individual (including a taxpayer who is also an employee, but is unable to satisfy the requirements of the 39-week test of (*a*) of this subdivision (i)), during the 24-month period immediately following his arrival in the general location of the new principal place of work, he is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at least 78 weeks, of which not less than 39 weeks are during the 12-month period referred to above.

Where a taxpayer works as an employee and at the same time performs services as a self-employed individual his principal employment (determined according to subdivision (i) of subparagraph (3) of this paragraph) governs whether the 39-week or 78-week test is applicable.

(ii) The 12-month period and the 39-week period set forth in subparagraph (A) of section 217(c)(2) and the 12- and 24-month periods as well as 39- and 78-week periods set forth in subparagraph (B) of such section are measured from the date of the taxpayer's arrival in the general location of the new principal place of work. Generally, date of arrival is the date of the termination of the last trip preceding the taxpayer's commencement of work on a regular basis and is not the date the taxpayer's family or household goods and effects arrive.

(iii) The taxpayer need not remain in the employ of the same employer or remain self-employed in the same trade or business for the required number of weeks. However, he must be employed in the same general location of the new principal place of work during such period. The "general location" of the new principal place of work refers to a general commutation area and is usually the same area as the "new place of residence"; see paragraph (b)(8) of this section.

(iv) Only those weeks during which the taxpayer is a full-time employee or during which he performs services as a self-employed individual on a full-time basis qualify as a week of work for purposes of the minimum period of employment condition of section 217(c)(2).

(a) Whether an employee is a full-time employee during any particular week depends upon the customary practices of the occupation in the geographic area in which the taxpayer works. Where employment is on a seasonable basis, weeks occurring in the off-season when no work is required or available may be counted as weeks of full-time employment only if the employee's contract or agreement of employment covers the off-season period and such period is less than 6 months. Thus, for example, a school teacher whose employment contract covers a 12-month period and who teaches on a full-time basis for more than 6 months is considered a full-time employee during the entire 12-month period. A taxpayer will be treated as a full-time employee during any week of involuntary temporary absence from work because of illness, strikes, shutouts, layoffs, natural disasters, etc.

(b) Whether a taxpayer performs services as a self-employed individual on a full-time basis during any particular week depends on the practices of the trade or business in the geographic area in which the taxpayer works. For example, a self-employed dentist maintaining office hours 4 days a week is considered to perform services as a self-employed individual on a full-time basis providing it is not unusual for other self-employed dentists in the geographic area in which the taxpayer works to maintain office hours only 4 days a week. Where a trade or business is seasonal, weeks occurring during the off-season when no work is required or available may be counted as weeks of performance of services on a full-time basis only if the off-season is less than 6 months and the taxpayer performs services on a full-time basis both before and after the off-season. For example, a taxpayer who owns and operates a motel at a beach resort is considered to perform services as a self-employed individual on a full-time basis if the motel is closed for a period not exceeding 6 months during the off-season and if he performs services on a full-time basis as the operator of a motel both before and after the off-season. A taxpayer will be treated as performing services as a self-employed individual on a full-time basis during any week of involuntary temporary absence from work because of illness, strikes, natural disasters, etc.

(v) Where taxpayers file a joint return, either spouse may satisfy the minimum period of employment condition. However, weeks worked by one spouse may not be added to weeks worked by the other spouse in order to satisfy such condition. The taxpayer seeking to satisfy the minimum period of employment condition must satisfy the condition applicable to him. Thus, if a taxpayer is subject to the 39-week condition and his spouse is subject to the 78-week condition and the taxpayer satisfies the 39-week condition, his spouse need not satisfy the 78-week condition. On the other hand, if the taxpayer does not satisfy the 39-week condition, his spouse in such case must satisfy the 78-week condition.

(vi) The application of this subparagraph may be illustrated by the following examples:

Example (1). A is an electrician residing in New York City. He moves himself, his family, and his household goods and personal effects, at his own expense, to Denver where he commences employment with the M Aircraft Corporation. After working full-time for 30 weeks he voluntarily leaves his job, and he subsequently moves to and commences employment in Los Angeles, Calif., which employment lasts for more than 39 weeks. Since A was not employed in the general location of his new principal place of employment in Denver for at least 39 weeks, no deduction is allowable for moving expenses paid or incurred between New York City and Denver. A will be allowed to deduct only those moving expenses attributable to his move from Denver to Los Angeles, assuming all other conditions of section 217 are met.

Example (2). Assume the same facts as in example (1), except that A's wife commences employment in Denver at the same time as A, and that she continues to work in Denver for at least 9 weeks after A's departure for Los Angeles. Since she has met the 39-week requirement in Denver, and assuming all other requirements of section 217 are met, the moving expenses paid by A attributable to the move from New York City to Denver will be allowed as a deduction, provided A and his wife file a joint return. If A and his wife file separate returns moving expenses paid by A's wife attributable to the move from New York City to Denver will be allowed as a deduction on A's wife's return.

Example (3). Assume the same facts as in example (1), except that A's wife commences employment in Denver on the same day that A departs for Los Angeles, and continues to work in Denver for 9 weeks thereafter. Since neither A (who has worked 30 weeks) nor his wife (who has worked 9 weeks) has independently satisfied the 39-week requirement, no deduction for moving expenses attributable to the move from New York City to Denver is allowable.

(d) *Rules for application of section 217(c)(2).*—(1) *Inapplicability of minimum period of employment condition in certain cases.* Section 217(d)(1) provides that the minimum period of employment condition of section 217(c)(2 does not apply in the case of a taxpayer who is unable to meet such condition by reason of—

(i) Death or disability, or

(ii) Involuntary separation (other than for willful misconduct) from the service of an employer or by reason of transfer for the benefit of an employer.

For purposes of subdivision (i) of this subparagraph disability shall be determined according to the rules in section 72(m)(7) and § 1.72-17(f). Subdivision (ii) of this subparagraph applies only where the taxpayer has obtained full-time employment in which he could reasonably have been expected to satisfy the minimum period of employment condition. A taxpayer could reasonably have been expected to satisfy the minimum period of employment condition if at the time he commences work at the new principal place of work he could have been expected, based upon the facts known to him at such time, to satisfy such condition. Thus, for example, if the taxpayer at the time of transfer was not advised by his employer that he planned to transfer him within 6 months to another principal place of work, the taxpayer could, in the absence of other factors, reasonably have been expected to satisfy the minimum employment period condition at the time of the first transfer.

(2) *Election of deduction before minimum period of employment condition is satisfied.* (i) Paragraph (2) of section 217(d) provides a rule which applies where a taxpayer paid or incurred, in a taxable year, moving expenses which would be deductible in that taxable year except that the minimum period of employment condition of section 217(c)(2) has not been satisfied before the time prescribed by law for filing the return for such taxable year. The rule provides that where a taxpayer has paid or incurred moving expenses and as of the date prescribed by section 6072 for filing his return for such taxable year (determined with regard to extensions of time for filing) there remains unexpired a sufficient portion of the 12-month or the 24-month period so that it is still possible for the taxpayer to satisfy the applicable period of employment condition, the taxpayer may elect to claim a deduction for such moving expenses on the return for such taxable year. The election is exercised by taking the deduction on the return.

(ii) Where a taxpayer does not elect to claim a deduction for moving expenses on the return for the taxable year in which such expenses were paid or incurred in accordance with subdivision (i) of this subparagraph and the applicable minimum period of employment condition of section 217(c)(2) (as well as all other requirements of section 217) is subsequently satisfied, the taxpayer may file an amended return or a claim for refund for the taxable year such moving expenses were paid or incurred on which he may claim a deduction under section 217.

(iii) The application of this subparagraph may be illustrated by the following examples:

Example (1). A is transferred by his employer from Boston, Massachusetts, to Cleveland, Ohio. He begins working there on November 1, 1970. Moving expenses are paid by A in 1970 in connection with this move. On April 15, 1971, when he files his income tax return for the year 1970, A has been a full-time employee in Cleveland for approximately 24 weeks. Although he has not satisfied the 39-week employment condition at this time, A may elect to claim his 1970 moving expenses on his 1970 income tax return as there is still sufficient time remaining before November 1, 1971, to satisfy such condition.

Example (2). Assume the same facts as in example (1), except that on April 15, 1971, A has voluntarily left his employer and is looking for other employment in Cleveland. A may not be sure he will be able to meet the 39-week employment condition by November 1, 1971. Thus, he may if he wishes wait until such condition is met and file an amended return claiming as a deduction the expenses paid in 1970. Instead of filing an amended return A may file a claim for refund based on a deduction for such expenses. If A fails to meet the 39-week employment condition on or before November 1, 1971, no deduction is allowable for such expenses.

Example (3). B is a self-employed accountant. He moves from Rochester, N.Y., to New York, N.Y., and begins to work there on December 1, 1970. Moving expenses are paid by B in 1970 and 1971 in connection with this move. On April 15, 1971, when he files his income tax return for the year 1970, B has been performing services as a self-employed individual on a full-time basis in New York City for approximately 20 weeks. Although he has not satisfied the 78-week employment condition at this time, A may elect to claim his 1970 moving expenses on his 1970 income tax return as there is still sufficient time remaining before December 1, 1972, to satisfy such condition. On April 15, 1972, when he files his income tax return for the year 1971, B has been performing services as a self-employed individual on a full-time basis in New York City for approximately 72 weeks. Although he has not met the 78-week employment condition at this time, B may elect to claim his 1971 moving expenses on his 1971 income tax return as there is still sufficient time remaining before December 1, 1972, to satisfy such requirement.

(3) *Recapture of deduction.* Paragraph (3) of section 217(d) provides a rule which applies where a taxpayer has deducted moving expenses under the election provided in section 217(d)(2) prior to satisfying the applicable minimum period of employment condition and such condition cannot be satisfied at the close of a subsequent taxable year. In such cases an amount equal to the expenses deducted must be included in the taxpayer's gross income for the taxable year in which the taxpayer is no longer able to satisfy such minimum period of employment condition. Where the taxpayer has deducted moving expenses under the election provided in section 217(d)(2) for the taxable year and subsequently files an amended return for such year on which he does not claim the deduction, such expenses are not treated as having been deducted for purposes of the recapture rule of the preceding sentence.

(e) *Denial of double benefit*—(1) *In general.* Section 217(e) provides a rule for computing the amount realized and the basis where qualified real estate expenses are allowed as a deduction under section 217(a).

(2) *Sale or exchange of residence.* Section 217(e) provides that the amount realized on the sale or exchange of a residence owned by the taxpayer, by the taxpayer's spouse, or by the taxpayer and his spouse and used by the taxpayer as his principal place of residence is not decreased by the amount of any expenses described in subparagraph (A) of section 217(b)(2) and deducted under section 217(a). For the purposes of section 217(e) and of this paragraph the term "amount realized" has the same meaning as under section 1001(b) and the regulations thereunder. Thus, for example, if the taxpayer sells a residence used as his principal place of residence and real estate commissions or similar expenses described in subparagraph (A) of section 217(b)(2) are deducted by him pursuant to section 217(a), the amount realized on the sale of the residence is not reduced by the amount of such real estate commissions or such similar expenses described in subparagraph (A) of section 217(b)(2).

(3) *Purchase of a residence.* Section 217(e) provides that the basis of a residence purchased or received in exchange for other property by the taxpayer, by the taxpayer's spouse, or by the taxpayer and his spouse and used by the taxpayer as his principal place of residence is not increased by the amount of any expenses described in subparagraph (B) of section 217(b)(2) and deducted under section 217(a). For the purposes of section 217(e) and of this paragraph the term "basis" has the same meaning as under section 1011 and the regulations thereunder. Thus, for example, if a taxpayer purchases a residence to be used as his principal place of residence and attorneys' fees or similar expenses described in subparagraph (B) of section 217(b)(2) are deducted pursuant to section 217(a), the basis of such residence is not increased by the amount of such attorneys' fees or such similar expenses described in subparagraph (B) or section 217(b)(2).

(4) *Inapplicability of section 217(e).* (i) Section 217(e) and paragraphs (1) through (3) of this paragraph do not apply to any expenses with respect to which an amount is included in gross income under section 217(d)(3). Thus, the amount of any expenses described in subparagraph (A) of section 217(b)(2) deducted in the year paid or incurred pursuant to the election under section 217(d)(2) and subsequently recaptured pursuant to section 217(d)(3) may be taken into account in computing the amount realized on the sale or exchange of the residence described in such subparagraph. Also, the amount of expenses described in subparagraph (B) of section 217(b)(2) deducted in the year paid or incurred pursuant to such election under section 217(d)(2) and subsequently recaptured pursuant to section 217(d)(3) may be taken into account as an adjustment to the basis of the residence described in such subparagraph.

(ii) The application of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). A was notified of his transfer effective December 15, 1972, from Seattle, Wash., to Philadelphia, Pa. In connection with the transfer A sold his house in Seattle on November 10, 1972. Expenses incident to the sale of the house of $2,500 were paid by A prior to or at the time of the closing of the contract of sale on December 10, 1972. The amount realized on the sale of the house was $47,500 and the adjusted basis of the house was $30,000. Pursuant to the election provided in section 217(d)(2), A deducted the expenses of moving from Seattle to Philadelphia including the expenses incident to the sale of his former residence in taxable year 1972. Dissatisfied with his position with his employer in Philadelphia, A took a position with an employer in Chicago, Ill., on July 15, 1973. Since A was no longer able to satisfy the minimum period employment condition at the close of taxable year 1973 he included an amount equal to the amount deducted as moving expenses including the expenses incident to the sale of his former residence in gross income for taxable year 1973. A is permitted to decrease the amount realized on the sale of the house by the amount of the expenses incident to the sale of the house deducted from gross income and subsequently included in gross income. Thus, the amount realized on the sale of the house is decreased from $47,500 to $45,000 and thus, the gain on the sale of the house is reduced from $17,500 to $15,000. A is allowed to file an amended return or a claim for refund in order to reflect the recomputation of the amount realized.

Example (2). B, who is self-employed decided to move from Washington, D.C., to Los Angeles, Calif. In connection with the commencement of work in Los Angeles on March 1, 1973, B purchased a house in a suburb of Los Angeles for $65,000. Expenses incident to the purchase of the house in the amount of $1,500 were paid by B prior to or at the time of the closing of the contract of sale on September 15, 1973. Pursuant to the election provided in section 217(d)(2), B deducted the expenses of moving from Washington to Los Angeles including the expenses incident to the purchase of his new residence in taxable year 1973. Dissatisfied with his prospects in Los Angeles, B moved back to Washington on July 1, 1974. Since B was no longer able to satisfy the minimum period of employment condition at the close of taxable year 1974 he included an amount equal to the amount deducted as moving expenses incident to the purchase of the former residence in gross income for taxable year 1974. B is permitted to increase the basis of the house by the amount of the expenses incident to the purchase of the house deducted from gross income and subsequently included in gross income. Thus, the basis of the house is increased to $66,500.

(f) *Rules for self-employed individuals*—(1) *Definition.* Section 217(f)(1) defines the term "self-employed individual" for purposes of section 217 to mean an individual who performs personal services either as the owner of the entire interest in an unincorporated trade or business or as a partner in a partnership carrying on a trade or business. The term "self-employed individual" does not include the semiretired, part-time students, or other similarly situated taxpayers who work only a few hours each

week. The application of this subparagraph may be illustrated by the following example:

Example. A is the owner of the entire interest in an unincorporated construction business. A hires a manager who performs all of the daily functions of the business including the negotiation of contracts with customers, the hiring and firing of employees, the purchasing of materials used on the projects, and other similar services. A and his manager discuss the operations of the business about once a week over the telephone. Otherwise A does not perform any managerial services for the business. For the purposes of section 217, A is not considered to be a self-employed individual.

(2) *Rule for application of subsection (b)(1)(C) and (D).* Section 217(f)(2) provides that for purposes of subparagraphs (C) and (D) of section 217(b)(1) an individual who commences work at a new principal place of work as a self-employed individual is treated as having obtained employment when he has made substantial arrangements to commence such work. Whether the taxpayer has made substantial arrangements to commence work at a new principal place of work is determined on the basis of all the facts and circumstances in each case. The factors to be considered in this determination depend upon the nature of the taxpayer's trade or business and include such considerations as whether the taxpayer has: (i) Leased or purchased a plant, office, shop, store, equipment, or other property to be used in the trade or business, (ii) made arrangements to purchase inventory or supplies to be used in connection with the operation of the trade or business, (iii) entered into commitments with individuals to be employed in the trade or business, and (iv) made arrangements to contact customers or clients in order to advertise the business in the general location of the new principal place of work. The application of this subparagraph may be illustrated by the following examples:

Example (1). A, a partner in a growing chain of drug stores decided to move from Houston, Tex., to Dallas, Tex., in order to open a drug store in Dallas. A made several trips to Dallas for the purpose of looking for a site for the drug store. After the signing of a lease on a building in a shopping plaza, suppliers were contacted, equipment was purchased, and employees were hired. Shortly before the opening of the store A and his wife moved from Houston to Dallas and took up temporary quarters in a motel until the time their apartment was available. By the time he and his wife took up temporary quarters in the motel A was considered to have made substantial arrangements to commence work at the new principal place of work.

Example (2). B, who is a partner in a securities brokerage firm in New York, N.Y., decided to move to Rochester, N.Y., to become the resident partner in the firm's new Rochester office. After a lease was signed on an office in downtown Rochester B moved to Rochester and took up temporary quarters in a motel until his apartment became available. Before the opening of the office B supervised the decoration of the office, the purchase of equipment and supplies necessary for the operation of the office, the hiring of personnel for the office, as well as other similar activities. By the time B took up temporary quarters in the motel he was considered to have made substantial arrangements to commence work at the new principal place of work.

Example (3). C, who is about to complete his residency in ophthalmology at a hospital in Pittsburgh, Pa., decided to fly to Philadelphia, Pa., for the purpose of looking into opportunities for practicing in that city. Following his arrival in Philadelphia C decided to establish his practice in that city. He leased an office and an apartment. At the time he departed Pittsburgh for Philadelphia C was not considered to have made substantial arrangements to commence work at the new principal place of work, and, therefore, is not allowed to deduct expenses described in subparagraph (C) of section 217(b)(1) (relating to expenses of traveling (including meals and lodging), after obtaining employment, from the former residence to the general location of the new principal place of work and return, for the principal purpose of searching for a new residence).

(g) *Effective date*—(1) *In general.* This section, except as provided in subparagraphs (2) and (3) of this paragraph, is applicable to items paid or incurred in taxable years beginning after December 31, 1969.

(2) *Reimbursement not included in gross income.* This section does not apply to items to the extent that the taxpayer received or accrued in a taxable year beginning before January 1, 1970, a reimbursement or other expense allowance for such items which was not included in his gross income.

(3) *Election in cases of expenses paid or incurred before January 1, 1971, in connection with certain moves*—(i) *In general.* A taxpayer who was notified by his employer on or before December 19, 1969, of a transfer to a new principal place of work and who pays or incurs moving expenses before January 1, 1971, in connection with such transfer may elect to have the rules governing moving expenses in effect prior to the effective date of section 231 of the Tax Reform Act of 1969 (83 Stat. 577) govern such expenses. If such election is made, this section and section 82 and the regulations thereunder do not apply to such expenses. A taxpayer is considered to have been notified on or before December 19, 1969, by his employer of a transfer, for example, if before such date the employer has sent a notice to all employees or a reasonably defined group of employees, which includes such taxpayer, of a relocation of the operations of such employer from one plant or facilitiy to another plant or facility. An employee who is transferred to a new principal place of work for the benefit of his employer and who makes an election under this paragraph is permitted to exclude amounts received or accrued, directly or indirectly, as payment for or reimbursement of expenses of moving household goods and personal effects from the former residence to the new residence and of traveling (including meals and lodging) from the former residence to the new place of residence. Such exclusion is limited to amounts received or accrued, directly or indirectly, as a payment for or reimbursement of the expenses described above. Amounts in excess of actual expenses paid or incurred must be included in gross income. No deduction is allowable under section 217 for expenses representing amounts excluded from gross income. Also, an employee who is transferred to a new principal place of work which is less than 50 miles but at least 20 miles farther from his former residence than was his former principal place of work and who is not reimbursed, either directly or indirectly, for the expenses described above is permitted to deduct such expenses providing all of the requirements of section 217 and the regulations thereunder prior to the effective date of section 231 of the Tax Reform Act of 1969 (83 Stat. 577) are satisfied.

(ii) *Election made before the date of publication of this notice as a Treasury decision.* An election under this subparagraph made before the date of publication of this notice as a Treasury decision shall be made pursuant to the procedure prescribed in temporary income tax regulations relating to treatment of payments of expenses of moving from one residence to another residence (Part 13 of this chapter) T.D. 7032 (35 F.R. 4330), approved March 11, 1970.

(iii) *Election made on or after the date of publication of this notice as a Treasury decision.* An election made under this subparagraph on or after the date of publication of this notice as a Treasury decision shall be made not later than the time, including extensions thereof, prescribed by law for filing the income tax return for the year in which the expenses were paid or 30 days after the date of publication of this notice as a Treasury decision, whichever occurs last. The election shall be made by a statement attached to the return (or the amended return) for the taxable year, setting forth the following information:

(*a*) The items to which the election relates;

(*b*) The amount of each item;

(*c*) The date each item was paid or incurred; and

(*d*) The date the taxpayer was informed by his employer of his transfer to the new principal place of work.

(iv) *Revocation of election.* An election made in accordance with this subparagraph is reyocable upon the filing by the taxpayer of an amended return or a claim for refund with the district director, or the director of the Internal Revenue service center with whom the election was filed not later than the time prescribed by law, including extensions thereof, for the filing of a claim for refund with respect to the items to which the election relates.

PAR. 5. Section 1.1001 is amended by adding new subsections (e) and (f) to section 1001 and by revising the historical note, as follows:

§ 1.1001 Statutory provisions; determination of amount of and recognition of gain or loss.

SEC. 1001. *Determination of amount of and recognition of gain or loss.* * * *

(e) *Certain term interests*—(1) *In general.* In determining gain or loss from the sale or

other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to section 1014 or 1015 (to the extent that such adjusted basis is a portion of the entire adjusted basis of the property) shall be disregarded.

(2) *Term interest in property defined.* For purposes of paragraph (1), the term "term interest in property" means—

(A) A life interest in property,

(B) An interest in property for a term of years, or

(C) An income interest in a trust.

(3) *Exception.* Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons.

(f) *Cross reference.* For treatment of certain expenses incident to the sale of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e).

[Sec. 1001 as amended by secs. 231(c)(2) and 516(a), Tax Reform Act 1969 (83 Stat. 579, 646)]

PAR. 6. Section 1.1016 is amended by deleting subsection (c) of section 1016, by adding immediately after subsection (b) of that section new subsection (c), and by revising the historical note. As amended § 1.1016 reads as follows:

§ 1.1016 Statutory provisions; adjustments to basis.

SEC. 1016. *Adjustments to basis.* * * *

(c) *Cross references.* (1) For treatment of certain expenses incident to the purchase of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e).

(2) For treatment of separate mineral interests as one property, see section 614.

[Sec. 1016 as amended by sec. 4(c), Act of June 29, 1957 (Public Law 629, 84th Cong., 70 Stat. 407); secs. 2(b) and 64(d)(2), Technical Amendments Act 1958 (72 Stat. 1607, 1656); sec. 3(d)(1) and (2), Life Insurance Company Income Tax Act 1959 (73 Stat. 139); secs. 2(f), 8(g)(2), and 12(b)(4), Rev. Act 1962 (72 Stat. 972, 998, 1031); sec. 203(a)(3)(C), Rev. Act 1964 (78 Stat. 34); sec. 227(b)(5), Rev. Act 1964 (78 Stat. 98); sec. 231(c)(3), Tax Reform Act 1969 (83 Stat. 580)]

EMPLOYMENT TAX REGULATIONS (26 CFR PART 31)

PAR. 7. Section 31.6051–1 is amended by redesignating paragraph (e) as new paragraph (f) and by adding new paragraph (e) immediately after paragraph (d). These new provisions read as follows:

§ 31.6051–1 Statement for employees.

* * * * *

(e) *Reporting of reimbursement of or payment of expenses of moving from one residence to another residence.* Every employer who makes reimbursement of, or payment to, an employee for his expenses of moving from one residence to another residence which is includible in gross income under section 82 shall furnish to such employee, on forms provided by the Internal Revenue Service, information sufficient to assist the employee in the computation of any deduction allowable under section 217 with respect to such reimbursement or payment. The information shall include the amount of the reimbursement or payment and whether the reimbursement or payment was made directly to the employee, indirectly to a third party, or furnished in-kind to the employee. In addition, information shall be furnished as to whether the reimbursement or payment represents an expense described in subparagraphs (A) through (E) of section 217(d)(1), and if so, the amount and nature of the expenses described in each such subparagraph.

(f) *Cross references.* * * *

[FR Doc.71–3784 Filed 3–17–71;8:45 am]

[26 CFR Parts 1, 301]

TAXATION OF UNRELATED BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 511, 512(a)(1), 512(a)(2), 512(b)(12), 512(b)(16), 512(b)(17), 1504(e), and 6050 of the Internal Revenue Code of 1954 to sections 121(a), 121(b)(1), 121(b)(2)(B), 121(b)(2)(C), 121(b)(2)(D), and 121(e) of the Tax Reform Act of 1969 (83 Stat. 487), and in order to conform the Regulations on Procedure and Administration (26 CFR 301) under section 6050 of the Internal Revenue Code of 1954 to section 121(e) of the Tax Reform Act of 1969 (83 Stat. 487), such regulations are amended as follows:

INCOME TAX REGULATIONS (26 CFR PART 1)

PARAGRAPH 1. Section 1.511 is amended by revising section 511(a)(2)(A), by revising section 511(b)(2), by striking out section 511(c) and inserting in lieu thereof a new section 511(c), and by revising the historical note. These amended and added provisions read as follows:

§ 1.511 Statutory provisions; imposition of tax on unrelated business income of charitable, etc., organizations.

SEC. 511. *Imposition of tax on unrelated business income of charitable, etc., organizations*—(a) *Charitable, etc., corporations taxable at corporate rates.*

* * * * *

(2) *Organizations subject to tax.* (A) *Organizations described in sections 401(a) and 501(c).* The taxes imposed by paragraph (1) shall apply in the case of any organization (other than a trust described in subsection (b) or an organization described in section 501(c)(1)) which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a).

* * * * *

(b) *Tax on charitable, etc., trusts.*

* * * * *

(2) *Charitable, etc., trusts subject to tax.* The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents).

(c) *Special rule for section 501(c)(2) corporations.* If a corporation described in section 501(c)(2)—

(1) Pays any amount of its net income for a taxable year to an organization exempt from taxation under section 501(a) (or which would pay such an amount but for the fact that the expenses of collecting its income exceed its income), and

(2) Such corporation and such organization file a consolidated return for the taxable year,

such corporation shall be treated, for purposes of the tax imposed by subsection (a), as being organized and operated for the same purposes as such organization, in addition to the purposes described in section 501(c)(2).

[Sec. 511 as amended by sec. 3, Act of July 14, 1960 (Public Law 86–667, 74 Stat. 535); as amended by sec. 121(a), Tax Reform Act 1969 (83 Stat. 536)]

PAR. 2. Section 1.511–2 is amended by revising subparagraph (1) of paragraph (a), by revising subdivision (i) of subparagraph (3) of paragraph (a), by adding a new subdivision (iii) to subparagraph (3) of paragraph (a), by revising paragraph (b), and by adding new paragraphs (c) and (d). These amended and added provisions read as follows:

§ 1.511–2 Organizations subject to tax.

(a) *Organizations other than trusts and title holding companies.* (1)(i) The taxes imposed by section 511(a)(1) apply in the case of any organization (other than a trust described in section 511(b)(2) or an organization described in section 501(c)(1)) which is exempt from taxation under section 501(a) (except as provided in sections 507 through 515). For special rules concerning corporations described in section 501(c)(2), see paragraph (c) of this section.

(ii) In the case of an organization described in section 501(c) (4), (7), (8), (9), (10), (11), (12), (13), (14)(A), (15), (16), or (18), the taxes imposed by section 511(a)(1) apply only for taxable years beginning after December 31, 1969. In the case of an organization described in section 501(c)(14) (B) or (C), the taxes imposed by section 511(a)(1) apply only for taxable years beginning after February 2, 1966.

* * * * *

(3)(i) For taxable years beginning before January 1, 1970, churches and associations or conventions of churches are exempt from the taxes imposed by section 511. The exemption is applicable only to an organization which itself is a church or an association or convention of churches. Subject to the provisions of subdivision (ii) of this subparagraph, religious organizations, including religious orders, if not themselves churches or associations or conventions of churches, and all other organizations which are organized or operated under church auspices, are subject to the tax imposed by section 511, whether or not they engage in religious, educational, or charitable activities approved by a church.

* * * * *

(iii) For taxable years beginning after December 31, 1969, churches and conventions or associations of churches are subject to the taxes imposed by section 511, unless otherwise entitled to the benefit of the transitional rules of section 512(b)(16) and § 1.512(b)-1(i).

(b) *Trusts*—(1) *In general.* The taxes imposed by section 511(b) apply in the case of any trust which is exempt from taxation under section 501(a) (except as provided in sections 507 through 515), and which, if it were not for such exemption, would be subject to the provisions of subchapter J, Chapter 1, of the Code. An organization which is considered as "trustee" of a stock bonus, pension, or profit-sharing plan described in section 401(a), a supplemental unemployment benefit trust described in section 501(c)(17), or a pension plan described in section 501(c)(18) (regardless of the form of such organization) is subject to the taxes imposed by section 511(b)(1) on its unrelated business income. However, if such an organization conducts a business which is a separate taxable entity on the basis of all the facts and circumstances, for example, an association taxable as a corporation, the business will be taxable as a feeder organization described in section 502.

(2) *Effective dates.* In the case of a trust described in section 501(c)(3), the taxes imposed by section 511(b) apply for taxable years beginning after December 31, 1953. In the case of a trust described in section 401(a), the taxes imposed by section 511(b) apply for taxable years beginning after June 30, 1954. In the case of a trust described in section 501(c)(17), the taxes imposed by section 511(b) apply for taxable years beginning after December 31, 1959. In the case of any other trust described in subparagraph (1) of this paragraph, the taxes imposed by section 511(b) apply for taxable years beginning after December 31, 1969.

(c) *Title Holding Companies*—(1) *In general.* If a corporation described in section 501(c)(2) pays any amount of its net income for a taxable year to an organization exempt from taxation under section 501(a) (or would pay such an amount but for the fact that the expenses of collecting its income exceed its income), and if such corporation and such organization file a consolidated income tax return for such taxable year, then such corporation shall be treated, for purposes of the tax imposed by section 511(a), as being organized and operated for the same purposes as such organization, as well as for its title-holding purpose. Therefore, if an item of income of the section 501(c)(2) corporation is derived from a source which is related to the exempt function of the exempt organization to which such income is payable and with which such corporation files a consolidated return, such item is, together with all deductions directly connected therewith, excluded from the determination of unrelated business taxable income under section 512 and shall not be subject to the tax imposed by section 511(a). If, however, such item of income is derived from a source which is not so related, then such item, less all deductions directly connected therewith, is, subject to the modifications provided in section 512(b), unrelated business taxable income subject to the tax imposed by section 511(a).

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following example:

Example. The income of X, a section 501(c)(2) corporation, is required to be distributed to exempt organization A. During the taxable year X realizes net income of $900,000 from source M and $100,000 from source N. Source M is related to A's exempt function, while source N is not so related. X and A file a consolidated return for such taxable year. X has net unrelated business income of $100,000, subject to the modifications in section 512(b).

(3) *Cross reference.* For rules relating generally to the filing of consolidated returns by certain organizations exempt from taxation under section 501(a), see section 1504(e) of the Code and § 1.1502-100.

(4) *Effective dates.* Subparagraphs (1) through (3) of this paragraph apply with respect to taxable years beginning after December 31, 1969. For taxable years beginning before January 1, 1970, a corporation described in section 501(c)(2) and otherwise exempt from taxation under section 501(a) is taxable upon its unrelated business taxable income only if such income is payable either—

(i) To a church or convention or association of churches, or

(ii) To any organization subject, for taxable years beginning before January 1, 1970, to the tax imposed by section 511(a)(1).

(d) The fact that any class of organizations exempt from taxation under section 501(a) is subject to the unrelated business income tax under section 511 and this section does not in any way enlarge the permissible scope of business activities of such class for purposes of the continued qualification of such class under section 501(a).

PAR. 3. Section 1.512(a) is amended by revising section 512(a) and by adding at the end thereof a historical note. These amended and added provisions read as follows:

§ 1.512(a) Statutory provisions; unrelated business taxable income; definition.

SEC. 512. *Unrelated business taxable income*—(a) *Definition.* For purposes of this title—

(1) *General rule.* Except as otherwise provided in this subsection, the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

(2) *Special rule for foreign organizations.* In the case of an organization described in section 511 which is a foreign organization, the unrelated business taxable income shall be—

(A) Its unrelated business taxable income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, plus

(B) Its unrelated business taxable income which is effectively connected with the conduct of a trade or business within the United States.

* * * * *

[Sec. 512(a) as amended by sec. 121(b)(2), Tax Reform Act 1969 (83 Stat. 537)]

PAR. 4. Section 1.512(a)-1 is amended by revising paragraph (a), by redesignating paragraph (f) as paragraph (g), and by adding a new paragraph (f). These amended and added provisions read as follows:

§ 1.512(a)-1 Definition.

(a) *In general.* Except as otherwise provided in § 1.512(a)-3 or paragraph (f) of this section, section 512(a)(1) defines "unrelated business taxable income" as the gross income derived from any unrelated trade or business regularly carried on, less those deductions allowed by chapter 1 of the Code which are directly connected with the carrying on of such trade or business, subject to certain modifications referred to in § 1.512(b)-1. To be deductible in computing unrelated business taxable income, therefore, expenses, depreciation, and similar items not only must qualify as deductions allowed by chapter 1 of the Code, but also must be directly connected with the carrying on of unrelated trade or business. Except as provided in paragraph (d)(2) of this section, to be "directly connected with" the conduct of unrelated business, for purposes of section 512, an item of deduction must have proximate and primary relationship to the carrying on of that business. In the case of an organization which derives gross income

from the regular conduct of two or more unrelated business activities, unrelated business taxable income is the aggregate of gross income from all such unrelated business activities less the aggregate of the deductions allowed with respect to all such unrelated business activities.

* * * * *

(f) *Foreign organizations*—(1) *In general.* The unrelated business taxable income of a foreign organization exempt from taxation under section 501(a) consists of:

(i) The organization's unrelated business taxable income which is derived from sources within the United States but which is not effectively connected with the conduct of a trade or business within the United States, plus

(ii) The organization's unrelated business taxable income effectively connected with the conduct of a trade or business within the United States (whether or not such income is derived from sources within the United States).

To determine whether income realized by a foreign organization is derived from sources within the United States or is effectively connected with the conduct of a trade or business within the United States, see part 1 of subchapter N (section 861 and following) and the regulations thereunder.

(2) *Effective dates.* Subparagraph (1) of this paragraph applies to taxable years beginning after December 31, 1969. For taxable years beginning on or before December 31, 1969, the unrelated business taxable income of a foreign organization exempt from taxation under section 501 (a) consists of the organization's unrelated business taxable income which—

(i) For taxable years beginning after December 31, 1966, is effectively connected with the conduct of a trade or business within the United States, whether or not such income is derived from sources within the United States;

(ii) For taxable years beginning on or before December 31, 1966, is derived from sources within the United States.

(g) *Effective date.* Paragraphs (a) through (e) of this section are applicable with respect to taxable years beginning after December 12, 1967. However, if a taxpayer wishes to rely on the rules stated therein for taxable years beginning before December 13, 1967, it may do so.

PAR. 5. Section 1.512(b) is amended by revising so much thereof that precedes paragraph (1), by revising section 512 (b)(12), by adding at the end thereof new paragraphs (16) and (17), and by revising the historical note. These amended and added provisions read as follows:

§ 1.512(b) Statutory provisions; unrelated business taxable income; modifications.

SEC. 512. *Unrelated business taxable income.*

* * * * *

(b) *Modifications.* The modifications referred to in subsection (a) are the following:

* * * * *

(12) Except for purposes of computing the net operating loss under section 172 and paragraph (6), there shall be allowed a specific deduction of $1,000. In the case of a diocese, province of a religious order, or a convention or association of churches, there shall also be allowed, with respect to each parish, individual church, district, or other local unit, a specific deduction equal to the lower of—

(A) $1,000, or

(B) The gross income derived from any unrelated trade or business regularly carried on by such local unit.

* * * * *

(16) Except as provided in paragraph (4), in the case of a church, or convention or association of churches, for taxable years beginning before January 1, 1976, there shall be excluded all gross income derived from a trade of business and all deductions directly connected with the carrying on of such trade or business if such trade or business was carried on by such organization or its predecessor before May 27, 1969.

(17) Except as provided in paragraph (4), in the case of a trade or business—

(A) Which consists of providing services under license issued by a Federal regulatory agency,

(B) Which is carried on by a religious order or by an educational institution (as defined in section 151(e)(4)) maintained by such religious order, and which was so carried on before May 27, 1969, and

(C) Less than 10 percent of the net income of which for each taxable year is used for activities which are not related to the purpose constituting the basis for the religious order's exemption,

there shall be excluded all gross income derived from such trade or business and all deductions directly connected with the carrying on of such trade or business, so long as it is established to the satisfaction of the Secretary or his delegate that the rates or other charges for such services are competitive with rates or other charges charged for similar services by persons not exempt from taxation.

[Sec. 512(b) as amended by Act of April 7, 1958 (Public Law 85-367, 72 Stat. 80); Act of July 17, 1964 (Public Law 88-380, 78 Stat. 333); sec. 121(b)(2), Tax Reform Act 1969 (83 Stat. 538)]

PAR. 6. Section 1.512(b)-1 is amended by revising so much thereof that precedes paragraph (a), by revising paragraph (h), and by adding at the end thereof new paragraphs (i) and (j). These amended and added provisions read as follows:

§ 1.512(b)-1 Modifications.

Whether a particular item of income falls within any of the modifications provided in section 512(b) shall be determined by all the facts and circumstances of each case. For example, if a payment termed "rent" by the parties is in fact a return of profits by a person operating the property for the benefit of the tax-exempt organization or is a share of the profits retained by such organization as a partner or joint venturer, such payment is not within the modification for rents. The modifications provided in section 512(b) are as follows:

* * * * *

(h) *Specific deduction*—(1) *In general.* In computing unrelated business taxable income a specific deduction from gross income of $1,000 is allowed. However, for taxable years beginning after December 31, 1969, such specific deduction is not allowed in computing the net operating loss under section 172 and paragraph (6) of section 512(b).

(2) *Special rule for a diocese, province of a religious order, or a convention or association of churches.* (i) In the case of a diocese, province of a religious order, or a convention or association of churches, there shall be allowed with respect to each parish, individual church, district, or other local unit a specific deduction equal to the lower of $1,000 or the gross income derived from an unrelated trade or business regularly conducted by such local unit. However, a diocese, province of a religious order, or a convention or association of churches shall not be entitled to a specific deduction for a local unit which, for a taxable year, files a separate return. In the case of a local unit which, for a taxable year, files a separate return, such local unit may claim a specific deduction equal to the lower of $1,000 or the gross income derived from any unrelated trade or business which it regularly conducts.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. X is an associattion of churches on the calendar year basis. X is divided into local units A, B, C, and D. During 1973, A, B, C, and D derive gross income of, respectively, $1,200, $800, $1,500, and $700 from unrelated businesses which they regularly conduct. Furthermore, for such taxable year, D files a separate return. X may claim a specific deduction of $1,000 with respect to A, $800 with respect to B, and $1,000 with respect to C. X may not claim a specific deduction with respect to D. D, however, may claim a specific deduction of $700 on its return.

(i) *Transitional period for churches.* (1)(i) In the case of an unrelated trade or business (as defined in section 513) carried on before May 27, 1969, by a church or convention or association of churches (as defined in § 1.511-2(a)(3)(ii)), or by the predecessor of a church or convention or association of churches which predecessor was itself a church or convention or association of churches, all gross income derived from such unrelated trade or business and all deductions directly connected with the carrying on such unrelated trade or business shall be excluded from the determination of unrelated business taxable income under section 512(a) for all taxable years beginning before January 1, 1976. Notwithstanding the preceding sentence, in the case of income from debt-financed property (and the deductions attributable thereto), as defined in section 514, of a church or convention or association of churches or by the predecessor of a church or convention or association of churches, the provisions of paragraphs (a) through (e) of section 514 and paragraph (4) of section 512(b) shall apply for taxable years beginning after December 31, 1969.

(ii) The provisions of subdivision (i) may be illustrated by the following example:

Example. X, a church as defined in §1.511-2(a)(3)(ii), realizes gross income from an unrelated business (as defined in section

513) of $100,000 for calendar year 1972. X's predecessor church, Y, began conducting such unrelated business in January 1, 1968. Of the $100,000 realized for calendar year 1972, $40,000 is attributable to debt-financed property (as defined in section 514). Since the unrelated business was conducted by Y prior to May 27, 1969, and since X's taxable year begins before January 1, 1976. that amount of the income realized from such business (and all deductions directly connected therewith) which is not attributable to debt-financed property shall be excluded from the determination of unrelated business taxable income under section 512(a). Therefore, of the $100,000 realized, $60,000 ($100,000 less $40,000 attributable to debt-financed property), and all deductions directly connected therewith shall be excluded from the determination of such unrelated business taxable income for purposes of imposition of the tax under section 511(a). The remaining $40,000 and the deductions attributable thereto shall be subject to the provisions of paragraphs (a) through (e) of section 514 and paragraph (4) of section 512(b).

(2) This paragraph shall not apply in the case of income from property, or deductions directly connected with such income, if title to the property is held by a corporation described in section 501(c)(2) for a church or convention or association of churches. Thus, if such income is derived from an unrelated trade or business, the corporation shall be liable for tax imposed by section 511(a) on such income.

(j) *Special rule for certain unrelated trades or business carried on by a religious order or by an educational institution maintained by such order.* (1) Except as provided in subparagraph (2) of this paragraph, gross income realized by a religious order (or an educational institution (as defined in section 151(e)(4)) maintained by such order) from an unrelated trade or business, together with all deductions directly connected therewith, shall be excluded from the determination of unrelated business taxable income under section 512(a), if—

(i) The trade or business has been operated by such order or by such institution since before May 27, 1959,

(ii) The trade or business consists of providing services under a license issued by a Federal regulatory agency,

(iii) More than 90 percent of the net income from the business is, for each taxable year for which gross income from such business is so excluded by reason of section 512(b)(17) and this paragraph, devoted to religious, charitable, or educational purposes, and

(iv) It is established to the satisfaction of an officer no lower than the Regional Commissioner that the rates or other charges for such services are fully competitive with rates or other charges charged for such services by persons not exempt from taxation. Rates or other charges for such services shall be considered as fully competitive with rates or other charges charged for such services by persons not exempt from taxation if the rates charged by such unrelated trade or business are neither materially higher nor materially lower than the rates charged by similar businesses operating in the same general area.

(2) The provisions of this paragraph shall not apply with respect to income from debt-financed property (as defined in section 514) and the deductions attributable thereto. For taxable years beginning after December 31, 1969, such income and deductions are subject to the provisions of paragraphs (a) through (e) of section 514 and paragraph (4) of section 512(b).

PAR. 7. Section 1.1504 is amended by adding at the end thereof a new subsection (e) and by revising the historical note. These amended and added provisions read as follows:

§ 1.1504 Statutory provisions; definitions.

SEC. 1504. *Definitions.*

* * * * *

(e) *Includible tax-exempt organizations.* Despite the provisions of paragraph (1) of subsection (b), two or more organizations exempt from taxation under section 501, one or more of which is described in section 501(c)(2) and the others of which derive income from such 501(c)(2) organizations, shall be considered as includible corporations for the purpose of the application of subsection (a) to such organizations alone.

[Sec. 1504 as amended by sec. 5, Act of Mar. 13, 1956 (Public Law 429, 84th Cong., 70 Stat. 49); sec. 64(d)(3), Technical Amendments Act 1958 (72 Stat. 1657); sec. 3(f)(1), Life Insurance Company Income Tax Act 1959 (73 Stat. 140); sec. 2(c), Act of Sept. 23, 1959 (Public Law 86-376, 73 Stat. 699); sec. 10(j), Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1009); sec. 121(a)(4), Tax Reform Act 1969 (83 Stat. 537)]

PAR. 8. There is inserted immediately after section 1.1502-80 the following new section:

§ 1.1502-100 Includible tax exempt organizations.

For taxable years beginning after December 31, 1969, two organizations exempt from taxation under section 501(a), one of which is described in section 501(c)(2) and the other of which derives income from such section 501(c)(2) organization, shall be considered as "includible corporations" for purposes of the application of subsection (a) of section 1504 to such organizations alone, despite the provisions of paragraph (1) of subsection (b) of section 1504. If such organizations satisfy the requirements of section 1504(a) (relating to the definition of an "affiliated group") and the other relevant provisions of chapter 6 of the Code, then such organizations may file a consolidated return.

PAR. 9. There are inserted immediately after § 1.6049-3 the following new sections:

§ 1.6050 Statutory provisions; returns relating to certain transfers to exempt organizations.

SEC. 6050. *Returns relating to certain transfers to exempt organizations*—(a) *General rule.* On or before the 90th day after the transfer of income producing property, the transferor shall make a return in compliance with the provisions of subsection (b) if the transferee is known by the transferor to be an organization referred to in section 511 (a) or (b) and the property (without regard to any lien) has a fair market value in excess of $50,000.

(b) *Form and contents of returns.* The return required by subsection (a) shall be in such form and shall set forth, in respect of the transfer, such information as the Secretary or his delegate prescribes by regulations as necesary for carrying out the provisions of the income tax laws.

[Sec. 6050 as added by sec. 121(e), Tax Reform Act 1969 (83 Stat. 548)]

§ 1.6050-1 Returns relating to certain transfers to exempt organizations.

(a) *Requirement of reporting.* Any person (individual, corporation, partnership, etc.) who, after December 31, 1969, sells, exchanges, gives, bequeaths, or otherwise transfers income producing property with a fair market value in excess of $50,000 (without regard to any lien thereon) to any organization or trust which is known by such person to be an organization or trust exempt from taxation by reason of section 501(a) (excluding organizations described in section 501(c)(1)), or to be an organization referred to in section 511(a)(2)(B), shall make a separate return on Form 4629 with respect to each such organization or trust. The return shall include the following information:

(1) Name, address, and identifying number (as defined in § 1.6109-1) of the transferor.

(2) Name and address of the transferree.

(3) Description of property transferred.

(4) Date of transfer of the property.

(5) Fair market value of the property (without regard to any lien thereon) on the date of transfer.

(6) Whether the property was transferred subject to a mortgage or other similar lien.

(7) Amount of a mortgage or other similar lien (if any) on the property immediately after the transfer.

(b) *Time and place for filing.* The return required by this section shall be filed on or before the later of [the 90th day after publication of final regulations under this section in the FEDERAL REGISTER] or the 90th day after the date of transfer of the property with the Mid-Atlantic Service Center, Philadelphia, Pa. For extensions of time for filing returns under this section, see § 1.6081-1.

(c) *Last day for filing return.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see § 301.7503-1 of this chapter (Regulations on Procedure and Administration).

REGULATIONS ON PROCEDURE AND ADMINISTRATION (26 CFR PART 301)

PAR. 10. There are inserted immediately after § 301.6049-1 the following new sections:

§ 301.6050 Statutory provisions; returns relating to certain transfers to exempt organizations.

SEC. 6050. *Returns relating to certain transfers to exempt organizations*—(a) *General rule.* On or before the 90th day after the transfer of income producing property, the transferor shall make a return in compliance with the provisions of subsection (b) if the

transferee is known by the transferor to be an organization referred to in section 511 (a) or (b) and the property (without regard to any lien) has a fair market value in excess of $50,000.

(b) *Form and contents of returns.* The return required by subsection (a) shall be in such form and shall set forth, in respect of the transfer, such information as the Secretary or his delegate prescribes by regulations as necessary for carrying out the provisions of the income tax laws.

[Sec. 6050 as added by sec. 121(e), Tax Reform Act 1969 (83 Stat. 548)]

§ 301.6050–1 Returns relating to certain transfers to exempt organizations.

For provisions regarding the requirement of returns relating to certain transfers to exempt organizations, see § 1.6050–1 of this chapter (Income Tax Regulations).

[FR Doc.71–3778 Filed 3–17–71;8:49 am]

[26 CFR Part 53]

APPLICATION OF TAXES TO CERTAIN NONEXEMPT TRUSTS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative from below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

The following regulations are prescribed under section 4947 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 517), relating to the application of taxes to certain nonexempt trusts. Except as otherwise provided in §§ 53.4947–1 and 2, such sections shall take effect on January 1, 1970.

PARAGRAPH 1. Immediately after §53.4946, insert the following sections:

§ 53.4947 Statutory provisions; application of taxes to certain nonexempt trusts.

SEC. 4947. *Application of taxes to certain nonexempt trusts*—(a) *Application of tax.* (1) *Charitable trusts.* For purposes of part II of subchapter F of chapter 1 (other than section 508 (a), (b), and (c)) and for purposes of this chapter, a trust which is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501(c)(3). For purposes of section 509(a)(3)(A), such a trust shall be treated as if organized on the day on which it first becomes subject to this paragraph.

(2) *Split-interest trusts.* In the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation. This paragraph shall not apply with respect to—

(A) Any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B),

(B) Any amounts in trust other than amounts for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such other amounts are segregated from amounts for which no deduction was allowable, or

(C) Any amounts transferred in trust before May 27, 1969.

(3) *Segregated amounts.* For purposes of paragraph (2)(B), a trust with respect to which amounts are segregated shall separately account for the various income, deduction, and other items properly attributable to each of such segregated amounts.

(b) *Special rules.*

(1) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(2) *Limit to segregated amounts.* If any amounts in the trust are segregated within the meaning of subsection (a)(2)(B) of this section, the value of the net assets for purposes of subsections (c)(2) and (g) of section 507 shall be limited to such segregated amounts.

(3) *Sections 4943 and 4944.* Sections 4943 and 4944 shall not apply to a trust which is described in subsection (a)(2) if—

(A) All the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in section 170(c)(2)(B), and all amounts in such trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have an aggregate value not more than 60 percent of the aggregate fair market value of all amounts in such trust, or

(B) A deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary but not to any income beneficiary.

[Sec. 4947, as added by sec. 101(b) Tax Reform Act 1969 (83 Stat. 517)]

§ 53.4947–1 Application of tax.

(a) *In general.* Section 4947 generally subjects trusts which are not exempt from taxation under section 501(a), and in which all or part of the unexpired interests are devoted to one or more of the purposes described in section 170(c)(2)(B), to the same requirements and restrictions as are imposed on private foundations. The basic purpose of section 4947 is to prevent such trusts from being used to avoid the requirements and restrictions applicable to private foundations. For purposes of this section and § 53.4947–2, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(1).

(b) *Charitable trusts*—(1) *General rule.* (i) For purposes of this section and § 53.4947–2, a "charitable trust", within the meaning of section 4947(a)(1), is a trust which is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law). A charitable trust (as defined in this subdivision) shall be treated as an organization described in section 501(c)(3) and, if it is determined under section 509 that such trust is a private foundation, then Part II of subchapter F of chapter 1 of the Code (other than section 508 (a), (b), and (c)) and chapter 42 shall apply to such trust.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). X creates an *inter vivos* trust under which M receives 50 percent and N receives 50 percent of the trust's income for 10 years, and upon the termination of which, at the end of such 10-year period, the corpus is to be distributed to O. M, N, and O are all organizations described in section 501(c)(3), and X is allowed a deduction under section 170 for the value of all interests placed in trust. The trust is a charitable trust within the meaning of section 4947(a)(1) from the date of its creation.

Example (2). Y creates a charitable remainder annuity trust described in section 664(d)(1) under which Z, Y's son, receives $10,000 per year for life, remainder to be held in trust for P, and organization described in section 501(c)(3). Y is allowed a deduction under section 170 for the present value of the remainder interest to P. During Z's lifetime, the trust is a split-interest trust described in section 4947(a)(2) and paragraph (c) of this section. Upon the death of Z, all unexpired interests (consisting of P's remainder interest) will be devoted to section 170(c)(2)(B) purposes and the trust will be treated as a charitable trust within the meaning of section 4947(a)(1).

(2) *Scope of application of section 4947(a)(1).* (i) Section 4947(a)(1) usually applies to trusts in which all unexpired interests consist only of charitable income and remainder interests (regardless of whether the trustee is required to distribute corpus to, or hold corpus in trust for the benefit of, any remainder beneficiary) or to trusts in which all unexpired interests consist of charitable remainder interests where the trustee is required to hold corpus in trust for the benefit of any charitable remainder beneficiary. An estate from which the executor or administrator is required to distribute all of the net assets (free of trust) to charitable beneficiaries will not be considered to be a charitable trust under section 4947(a)(1) during the period of estate administration or settlement, except as provided in subdivision (ii) of this subparagraph.

(ii) In the case of an estate from which the executor or administrator is required to distribute all of the net assets (free of trust) to charitable beneficiaries, if the estate is considered terminated for Federal income tax purposes pursuant to § 1.641(b)–3(a) of this chapter, then the estate will be treated as a charitable trust under section 4947(a)(1) between the date on which such estate is considered terminated under § 1.641(b)–3(a) of this chapter and the date on which final distribution of all of the net assets is made to the charitable beneficiaries. For example, X bequeathed his entire estate, including 100 percent of the stock of a wholly owned corporation, to M, an organization described in section 501(c)(3), under a will which gave his executor authority to hold the stock and manage the corporation for a period of up to 10 years for the benefit of M prior to its ultimate disposition. The executor was vested with a full range of powers, including the power of sale. Upon the death of X, his executor distributed X's assets to M except for the stock of the corporation, which he held for 5 years prior to its disposition. The continued holding of the stock of the corporation by the executor after the expiration of a reasonable time for performance of all the ordinary duties of administration causes the estate to be considered terminated for Federal income tax purposes pursuant to § 1.641(b)–3(a) of this chapter and thereby subjects it to the provisions of section 4947(a)(1) from the date of such termination to the date of final disposition of the business.

(iii) Similarly, in the case of a trust in which all of the unexpired interests are charitable remainder interests which have become entitled to distributions of corpus (free of trust) upon the termination of all intervening noncharitable interests, if after the termination of such intervening interests, the trust is considered terminated for federal income tax purposes pursuant to § 1.641(b)–3(b) of this chapter, then the trust will be treated as a charitable trust under section 4947(a)(1), rather than a split-interest trust under section 4947(a)(2), between the date on which such trust is considered terminated under § 1.641(b)–3(b) of this chapter and the date on which final distribution (free of trust) of all of the net assets is made to the charitable remainder beneficiaries.

(iv) Except as otherwise provided in this subdivision, section 642(c)(6) shall not apply to a trust described in section 4947(a)(1) or (2) unless such trust fails to meet the requirements of section 508(e). If—

(*a*) The status of a trust as an organization exempt from taxation under section 501(a) which is described in section 501(c)(3) is recognized on October 9, 1969, or at any time thereafter,

(*b*) Such trust is a private foundation at such time, and

(*c*) Such trust is thereafter determined not to be exempt from taxation under section 501(a) as an organization described in section 501(c)(3),

then such trust will be treated as a taxable private foundation pursuant to § 1.509(b)–1(b) of this chapter, and section 642(c)(6) will apply to such trust.

(3) *Charitable trusts described in section 509(a)(3).* For purposes of section 509(a)(3)(A), a charitable trust shall be treated as if organized on the day on which it first becomes subject to section 4947(a)(1). However, for purposes of applying § 1.509–4(d)(2)(ii)(*a*), (i)(1)(ii), and (i)(1)(iii)(*c*) of this chapter, the previous relationship between the charitable trust and the section 509(a)(1) or (2) organizations it benefits or supports may be considered. If such charitable trust otherwise meets the requirements of section 509(a)(3), it may obtain recognition of its status as a section 509(a)(3) organization by requesting a ruling from the Internal Revenue Service. For the special rules pertaining to the application of the organizational test to organizations terminating their private foundation status under the 12-month or 60-month termination period provided under section 507(b)(1)(B) by becoming "public" under section 509(a)(3), see the regulations under section 507(b)(1).

(c) *Split-interest trusts*—(1) *General rule.* (i) For purposes of this section and § 53.4947–2, a "split-interest trust", within the meaning of section 4947(a)(2), is a trust which is not exempt from taxation under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522. Section 4947(a)(1) shall apply to a trust described in this subdivision (without regard to section 4947(a)(2)(A), (B), or (C)) from the first date upon which the provisions of paragraph (b)(2)(i), (ii), or (iii) of this section are satisfied.

(ii) A split-interest trust described in subdivision (i) of this subparagraph is subject to the provisions of section 507, 508(e) (to the extent applicable to a split-interest trust), 4941, 4943 (except as provided in section 4947(b)(3)), 4944 (except as provided in section 4947(b)(3)), and 4945 in the same manner as if such trust were a private foundation.

(iii) A newly created trust shall, for purposes of section 4947(a)(2), be treated as having amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, from the date of its creation, even if such a deduction is taken and allowed for such amounts only at a later date. For purposes of this subdivision, § 1.664–1(a)(3) of this chapter shall apply in determining the date of creation of a charitable remainder trust.

(2) *Amounts payable to income beneficiaries.* Under section 4947(a)(2)(A), subparagraph (1)(ii) of this paragraph is made inapplicable to any amounts payable under the terms of a split-interest trust to income beneficiaries unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) with respect to the income interest of any such beneficiary. For example, H created a charitable remainder unitrust (described in section 664(d)(2)) which is required annually to pay W, H's wife, 5 percent of the net fair market value of the trust assets, valued annually, for her life; and to pay the remainder to Y, a section 501(c)(3) organization. A deduction under section 170(f)(2)(A) was allowed with respect to the remainder interest of Y. Pursuant to section 4947(a)(2)(A), each annual amount which becomes payable to W during her life is not subject to subparagraph (1)(ii) of this paragraph on or after the date upon which it becomes so payable, and the payment of such amount to W is not an act of self-dealing under section 4941(d)(1) and does not violate any other provision of chapter 42. However, except as provided in the preceding sentence, the trust is subject to subparagraph (1)(ii) of this paragraph in the same manner as if such trust were a private foundation.

(3) *Applicability to segregated amounts.* (i) Section 4947(a)(2)(B) makes subparagraph (1)(ii) of this paragraph inapplicable to—

(*a*) Any assets held in trust (together with the income and capital gains derived from such assets), other than

(*b*) Assets held in trust with respect to which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522,

if the assets described in (*b*) of this subdivision are segregated from the assets described in (*a*) of this subdivision.

(ii) An asset described in subdivision (i)(*b*) of this subparagraph will be considered "segregated" (within the meaning of section 4947(a)(2)(B)) from an asset described in subdivision (i)(*a*) of this subparagraph if:

(*a*) The asset described in subdivision (i)(*a*) of this subparagraph is separately accounted for (within the meaning of subparagraph (4) of this paragraph) pursuant to section 4947(a)(3) and

(*b*) No deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c),

2055, 2106(a)(2), or 2522 for any income or remainder interest in such asset.

(iii) Amounts will generally be considered segregated (within the meaning of section 4947(a)(2)(B)) if:

(*a*) Two or more assets are held in trust;

(*b*) Each asset is separately accounted for; and

(*c*) By reason of such separate accounting the trust can be treated as two separate trusts, one of which is devoted exclusively to noncharitable income and remainder interests and the other of which is a charitable trust described in section 4947(a)(1) or a split-interest trust described in section 4947(a)(2).

In any case where the requirements of (*a*), (*b*), and (*c*) of this subdivision are met, any amounts held in trust which are separately accounted for will be deemed separate trusts for purposes of this subparagraph. Under such circumstances, only the "trust" which is devoted exclusively to noncharitable income and remainder interests will be considered a segregated amount which, pursuant to section 4947(a)(2)(B), is not subject to section 4947(a)(2), except as provided in subdivision (iv) of this subparagraph.

(iv) If, pursuant to section 4947(a)(2)(B),

(*a*) An amount held in trust which is devoted exclusively to noncharitable income and remainder interests is considered to be segregated from

(*b*) An amount held in trust which is devoted exclusively to charitable income and remainder interests,

then for purposes of this section the amount described in (*b*) of this subdivision will be treated as a charitable trust which is subject to the provisions of section 4947(a)(1).

(v) If, pursuant to section 4947(a)(2)(B),

(*a*) An amount held in trust which is devoted exclusively to noncharitable income and remainder interests is considered to be segregated from

(*b*) An amount held in trust which is devoted to both charitable income or remainder interests and noncharitable income or remainder interests.

then for purposes of this section the amount described in (*b*) of this subdivision will be treated as a split-interest trust which is subject to the provisions of section 4947(a)(2).

(vi) The application of this subparagraph may be illustrated by the following examples:

Example (*1*). H creates a trust under which the trustees are required to pay over annually 5 percent of the net fair market value of M building, valued annually, to W, H's wife, for life, remainder to S, H's son. The other asset in such trust is N building, with respect to which the trustees are required to pay over annually 5 percent of the net fair market value of the building, valued annually, to X, a section 501(c)(3) organization, for a period of 15 years, remainder to S. Each asset is separately accounted for pursuant to section 4947(a)(3) and subparagraph (4) of this paragraph. H received a deduction under section 2522 for the value of X's income interest in N building. Under these circumstances, M building is considered segregated (within the meaning of section 4947(a)(2)(B)) from N building and is not subject to section 4947(a)(2). The remainder interest of S in N building is not considered segregated from the income interest of X in N building, since both are interests in the same asset. N building is deemed held in a split-interest trust which is subject to section 4947(a)(2).

Example (*2*). H transfers $50,000 in trust to pay $2,500 per year to Z, a section 501(c)(3) organization, for a term of 20 years, remainder to S, H's son. H is allowed a deduction under section 2522 for the present value of Z's income interest. The income interest of Z in the trust assets cannot be segregated (within the meaning of section 4947(a)(2)(B)) from the remainder interest of S in the same assets. Therefore, the entire trust is subject to section 4947(a)(2).

(4) *Accounting for segregated amounts.* (i) For purposes of section 4947(a)(2)(B), a trust with respect to which amounts are segregated within the meaning of subparagraph (3) of this paragraph shall separately account for the various income, deduction, and other items properly attributable to each segregated asset in the books of account and separately to each of the beneficiaries of the trust. Assets with respect to which no deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any income or remainder interest must be accounted for separately from assets for which such deduction was allowed for any income or remainder interest.

(ii) For purposes of subparagraphs (3) and (4) of this paragraph, separate accounting shall be made—

(*a*) Accordingly to the method regularly employed by the trust, if such method is reasonable, and

(*b*) In all other cases in a manner which, in the opinion of the Commissioner or his delegate, is reasonable.

A method of separate accounting will be deemed "regularly employed" (within the meaning of (*a*) of this subdivision) by a trust if the method was consistently followed in prior taxable years or if, in the case of a trust which has never before maintained segregated asset accounts, the trust initiates a reasonable method of separate accounting for its segregated assets and consistently follows such method thereafter. Such trust shall keep such permanent records and other data relating to such assets as are necessary to enable the district director to determine the correctness of the application of the rules prescribed in subparagraphs (3) and (4) of this paragraph.

(5) *Amounts transferred in trust before May 27, 1969*—(i) *General rule.* Section 4947(a)(2)(C) makes subparagraph (1)(ii) of this paragraph inapplicable to any amounts transferred in trust before May 27, 1969. Income and capital gains which are derived at any time from amounts transferred in trust before May 27, 1969, shall also be excluded from the application of subparagraph (1)(ii) of this paragraph. If an asset which was transferred in trust before May 27, 1969, is sold or exchanged after May 27, 1969, any asset received by the trust upon such sale or exchange shall be treated as an asset which was transferred in trust before May 27, 1969.

(ii) *Effect of amounts transferred in trust after May 26, 1969.* If:

(*a*) Amounts are transferred in trust after May 26, 1969, and the trust to which such amounts are transferred also contains

(*b*) Amounts transferred in trust before May 27, 1969,

the general rule of subdivision (i) of this subparagraph applicable to the amounts described in (*b*) of this subdivision will apply only if the amounts described in (*a*) of this subdivision, together with all income and capital gains derived therefrom, are separately accounted for from the amounts described in (*b*) of this subdivision, together with all income and capital gains derived therefrom. For the application of section 508(e) to a trust with respect to which amounts were transferred both before and after May 27, 1969, see section 508(e) and the regulations thereunder.

(iii) *Testamentary trusts.* For purposes of section 4947(a)(2)(C), in the case of a decedent whose will provides for the creation of a testamentary trust and who dies before May 27, 1969, amounts transferred in trust before May 27, 1969 (regardless of whether the executors or the testamentary trustees are required to execute testamentary trusts by court order under applicable local law). For example, X executed a will in 1960 which provided for the creation of a testamentary trust which meets the description of a split-interest trust under section 4947(a)(2). X died on April 15, 1969. Pursuant to the provisions of his will, the probate court permitted certain property in X's estate to be transferred to the testamentary trust at fixed intervals over a period of two years during the administration of the estate. The period of administration was not unduly prolonged. For purposes of section 4947(a)(2)(C), each such transfer will be treated as an amount transferred in trust before May 27, 1969, within the meaning of section 4947(a)(2)(C).

(iv) *Special transitional rule for amounts transferred in trust after May 26, 1969, and before August 1, 1969.* In the case of amounts transferred in trust after May 26, 1969, and before August 1, 1969, for which a deduction under section 170 was allowed with respect to any amounts payable to income beneficiaries, section 4947(a)(2)(A) makes section 4947(a)(2) inapplicable to amounts payable under the terms of such trust to charitable income beneficiaries because section 170(f)(2)(B) did not take effect until August 1, 1969. Since section 4947(a)(2) does not apply to the charitable income interest in such trust, section 4947(a)(2) will be treated as not applying to such trust in its entirety if amounts have been transferred in trust only after May 26, 1969, and before August 1, 1969, and if

there are only noncharitable remainder interests in such trust.

(6) *Application of section 4947(a)(2) during period of estate administration.* An estate from which the executor or administrator is required to distribute all of the net assets (free of trust) to both charitable and noncharitable beneficiaries will generally not be considered to be a split-interest trust under section 4947(a)(2) during the period of estate administration or settlement. However, in the case of an estate from which the executor or administrator is required to distribute all of the net assets (free of trust) to both charitable and noncharitable beneficiaries, if:

(i) The period of administration or settlement is unduly prolonged, and

(ii) After the expiration of a reasonable period for the performance by the executor or administrator of all duties of administration, the estate is considered terminated for federal income tax purposes pursuant to § 1.641(b)-3(a), of this chapter.

then the estate will be treated as a split-interest trust under section 4947(a)(2) between the date on which such estate is considered terminated under § 1.641(b)-3(a) of this chapter and the date on which final distribution of assets to the last remaining charitable beneficiary is made.

(7) *Application of section 507(a) to certain split-interest trusts.* The provisions of section 507(a) will not become applicable to a split-interest trust described in section 4947(a)(2) by reason of the expiration of the last remaining charitable interest with respect to which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522. For example, H creates a trust under which X, a section 501(c)(3) organization, receives $20,000 per year for a period of 20 years, remainder to S, H's son. H is allowed a deduction under section 2522 for the present value of X's interest. When the final payment to X has been made at the end of the 20-year period in accordance with the terms of the trust, the provisions of section 4947(a)(2) will cease to apply to the trust since the trust no longer retains any amounts for which the deduction under section 2522 was allowed. However, such final payment to X will not be considered a termination of the trust's private foundation status within the meaning of section 507(a).

§ 53.4947-2 Special rules.

(a) *Limit to segregated amounts.* If any amounts held in trust are segregated within the meaning of § 53.4947-1(c)(3) and (4), the value of the net assets for purposes of section 507(c)(2) and (g) shall be limited to such segregated amounts with respect to which a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a), or 2522 was allowed. See the regulations under section 507(c)(2) and (g).

(b) *Applicability to sections 4943 and 4944*—(1) *General rule.* Under section 4947(b)(3), sections 4943 and 4944 shall not apply to a split-interest trust described in section 4947(a)(2) if:

(i) All the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in section 170(c)(2)(B) and all amounts in such trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2) 642(c), 2055, 2106(a)(2), or 2522 have an aggregate value (at the time such deduction was allowed) not more than 60 percent of the aggregate fair market value of all amounts in such trust (after the payment of estate taxes and all other liabilities), or

(ii) A deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary, but not to any income beneficiary.

This subparagraph shall apply to a trust described in subdivision (ii) of this subparagraph only if all amounts payable under the terms of such trust to every remainder beneficiary are to be devoted solely to one or more of the purposes described in section 170(c)(2)(B). Upon the expiration of all income interests in a trust described in subdivision (ii) of this subparagraph, such trust shall become subject to section 4947(a)(1) pursuant to § 53.4947-1(b)(2), and section 4947(b)(3) shall no longer apply to such trust. A pooled income fund described in section 642(c)(5) will generally meet the requirements of subdivision (ii) of this subparagraph, as will a charitable remainder trust described in section 664 if it does not make payments to any income beneficiary described in section 170(c).

(2) *Definitions.* (i) For purposes of section 4947(b)(3)(A), the term "income interest" shall include an interest in property transferred in trust which is in the form of a guaranteed annuity or under which the trust instrument specifies that the interest is a fixed percentage of the fair market value of the trust property (determined and distributed annually), and the term "remainder interest" shall include an interest which succeeds an "income interest" within the meaning of this subdivision.

(ii) For purposes of section 4947(b)(3)(B), the term "income beneficiary" shall include a recipient of payments described in section 642(c)(5)(F) from a pooled income fund, payments described in section 664(d)(1)(A) from a charitable remainder annuity trust, or payments described in section 664(d)(2)(A) or (3) from a charitable remainder unitrust. The term "remainder beneficiary" shall include a beneficiary of a remainder interest described in section 642(c)(5) or 664(d)(1)(C) or (2)(C).

(c) *Effective date.* Except as otherwise provided in §§ 53.4947-1 and 2 and the regulations under sections 508 (d) and (e), §§ 53.4947-1 and 53.4947-2 shall take effect on January 1, 1970.

[FR Doc.71-3776 Filed 3-17-71;8:49 am]

[26 CFR Part 301]

SUSPENSION OF RUNNING OF PERIOD OF LIMITATION

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestion who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 6503 of the Internal Revenue Code of 1954 to sections 106 (a) and (b) of the Federal Tax Lien Act of 1966 (80 Stat. 1125) and to provide regulations under section 6503(g) of such Code, as added by section 106(c) of such Act, such regulations are amended as follows:

PARAGRAPH 1. Section 301.6503(b) is amended by revising section 6503(b) and by adding a historical note. These amended and added provisions read as follows:

§ 301.6503(b) Statutory provisions: suspension of running of period of limitation; assets of taxpayer in control or custody of court.

SEC. 6503. *Suspension of running of period of limitation.* * * *

(b) *Assets of taxpayer in control or custody of court.* The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any State or of the District of Columbia, and for 6 months thereafter.

[Sec. 6503(b) as amended by sec. 106(a), Federal Tax Lien Act 1966 (80 Stat. 1139)]

PAR. 2. Section 301.6503(b)-1 is amended to read as follows:

§ 301.6503(b)–1 Suspension of running of period of limitation; assets of taxpayer in control or custody of court.

Where all or substantially all of the assets of a taxpayer are in the control or custody of the court in any proceeding before any court of the United States, or of any State of the United States, or of the District of Columbia, the period of limitations on collection after assessment prescribed in section 6502 is suspended with respect to the outstanding amount due on the assessment for the period such assets are in the control or custody of the court, and for 6 months thereafter. In the case of an estate of a decedent or an incompetent, the period of limitations on collection is suspended only for periods begining after November 2, 1966, during which assets are in the control or custody of a court, and for 6 months thereafter.

PAR. 3. Section 301.6503(c) is amended by revising section 6503(c) and by adding a historical note. These amended and added provisions read as follows:

§ 301.6503(c) Statutory provisions; suspension of running of period of limitation; taxpayer outside United States.

SEC. 6503. *Suspension of running of period of limitation.* * * *

(c) *Taxpayer outside United States.* The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months.

[Sec. 6503(c) as amended by sec. 106(b), Federal Tax Lien Act 1966 (80 Stat. 1139)]

PAR. 4. Section 301.6503(c)–1 is amended to read as follows:

§ 301.6503(c)–1 Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States; taxpayer outside of United States.

(a) *Property located outside, or removed from, the United States prior to November 3, 1966.* The running of the period of limitations on collection after assessment prescribed in section 6502 is suspended for the period of time, prior to November 3, 1966, that collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States. The total suspension of time under this provision shall not in the aggregate exceed 6 years. In any case in which the district director determines that collection is so hindered or delayed, he shall make and retain in the files of his office a written report which shall identify the taxpayer and the tax liability, shall show what steps were taken to collect the tax liability, shall state the grounds for his determination that property of the taxpayer is situated or held outside, or is removed from, the United States, and shall show the date on which it was first determined that collection was so hindered or delayed. The term "property" includes all property or rights to property, real or personal, tangible or intangible, belonging to the taxpayer. The suspension of the running of the period of limitations on collection shall be considered to begin on the date so determined by the district director. A copy of the report shall be mailed to the taxpayer at his last known address.

(b) *Taxpayer outside United States after November 2, 1966.* The running of the period of limitations on collection after assessment prescribed in section 6502 (relating to collection after assessment) is suspended for the period after November 2, 1966, during which the taxpayer is absent from the United States if such period is a continuous period of absence from the United States extending for 6 months or more. In a case where the running of the period of limitations has been suspended under the first sentence of this paragraph and at the time of the taxpayer's return to the United States the period of limitations would expire before the expiration of 6 months from the date of his return, the period of limitations shall not expire until after 6 months from the date of the taxpayer's return. The taxpayer will be deemed to be absent from the United States for purposes of this section if he is generally and substantially absent from the United States, even though he makes casual temporary visits during the period.

PAR. 5. Immediately after § 301.6503(f) there are added new §§ 301.6503(g) and 301.6503(g)–1. These new provisions read as follows:

§ 301.6503(g) Statutory provisions; suspension of running of period of limitation; wrongful seizure of property of third party.

SEC. 6503. *Suspension of running of period of limitation.* * * *

(g) *Wrongful seizure of property of third party.* The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary or his delegate to the date the Secretary or his delegate returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of the period of limitations on collection after assessment shall be suspended under this subsection only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

[Sec. 6503(g) as added by sec. 106(c), Federal Tax Lien Act 1966 (80 Stat. 1140)]

§ 301.6503(g)–1 Suspension of running of period of limitation; wrongful seizure of property of third party.

The running of the period of limitations on collection after assessment prescribed in section 6502 (relating to collection after assessment) shall be suspended for a period equal to a period beginning on the date property (including money) is wrongfully seized or received by a district director and ending on the date 30 days after the date on which the district director returns the property pursuant to section 6343(b) (relating to authority to return property) or the date 30 days after the date on which a judgment secured pursuant to section 7426 (relating to civil actions by persons other than taxpayers) with respect to such property becomes final. The running of the period of limitations on collection after assessment shall be suspended under this section only with respect to the amount of such assessment which is equal to the amount of money or the value of specific property returned. This section applies in the case of property wrongfully seized or received after November 2, 1966.

Example. On June 1, 1968 (at which time 10 months remain before the period of limitations on collection after assessment will expire), the district director wrongfully seizes $1,000 in B's account in Bank X and properly seizes $500 in taxpayer A's account in Bank Y in an attempt to satisfy A's assessed tax liability of $1,500. The district director determines that the $1,000 seized in Bank X was not the property of taxpayer A and, on March 1, 1969, he returns the $1,000 to B. As a result of the wrongful seizure, the running of the period of limitations on collection after assessment of the amount owed by taxpayer A is suspended for the 9-month period (beginning June 1, 1968, when the money was wrongfully seized and ending March 1, 1969, when the money was returned to B), plus 30 days. Therefore, the period of limitations on collection after assessment prescribed in section 6502 will not expire until February 1, 1970, which is 10 months plus 30 days after the money was returned.

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DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Electric Face Equipment

Notice is hereby given that in accordance with the provisions of sections 305(r) and 317(j) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173), and pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Act, it is proposed that Part 75, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, be amended by adding §§ 75.523–1 and 75.1710–1, as set forth below. These proposed amendments set forth requirements for installation of canopies or cabs on all electric face equipment and the installation of devices that will deenergize such equipment in the event of an emergency.

Interested persons may submit written comments, suggestions or objections to

the Director, Bureau of Mines, Washington, D.C. 20240, no later than 30 days following publication of this notice in the FEDERAL REGISTER.

ROGERS C. B. MORTON,
Secretary of the Interior.

MARCH 10, 1971.

Part 75, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, would be amended by adding the following:

§ 75.523–1 Deenergization of electric face equipment; installation of panic bars; requirements.

On and after June 30, 1971, all electric face equipment, including shuttle cars which is employed in the active workings of each underground coal mine, shall be equipped with devices, such as "panic bars," that will permit the equipment to be deenergized quickly in the event of an emergency.

§ 75.1710–1 Canopies or cabs; electric face equipment; installation requirements.

On and after June 30, 1971, all electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine, shall be equipped with substantial canopies or cabs to protect the operator of such equipment from falls of roof, face, and ribs.

[FR Doc.71-3734 Filed 3-17-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70-63]

CHICAGO RIVER, ILL.

Drawbridge Operation

1. The city of Chicago requested that the special operation regulations for several of its bridges across the main, north and south branches of the Chicago River and the North Branch Canal be revised. There has been limited use of these bridges by vessels from January through March. The present regulations for these bridges are set forth in 33 CFR 117.663 and provide for year round operation. It is proposed to revise these regulations to provide for 12 hours' advance notice for several of the city of Chicago bridges from January 1 through March 31, to add to § 117.663 the provisions of § 117.641(f) (7) and (7–a) which would consolidate all Chicago River drawbridge regulations under one section; to eliminate Saturday hours; to provide for roving tender service and to extensively revise the entire text of § 117.663.

§ 117.641 [Amended]

2. It is proposed to amend Part 117 by deleting paragraph (f) (7) and (7–a) of § 117.641. It is further proposed to amend Part 117 by revising § 117.663 to read as follows:

§ 117.663 Chicago River and its tributaries.

(a) *Prompt opening required.* The draws of each of the bridges in this section shall be opened promptly on signal except as provided for in paragraph (e) of this section.

(b) *Drawtenders and operating machinery.* The owners of or agencies controlling each bridge shall provide the necessary drawtenders and the proper machinery, maintained in serviceable condition, for the safe, prompt opening of the draw or as set forth in this section.

(c) *Posting of special operation regulations.* The owners of or agencies controlling each bridge shall conspicuously post notices both upstream and downstream of the bridge, on the bridge or elsewhere, in such a manner that they can be read from an approaching vessel. The notices shall contain statements of the special operation regulations applicable to each bridge. When applicable, information as to whom notice should be given when passage through the draw is desired and how such persons may be reached by telephone or otherwise shall be included.

(d) *Signals*—(1) *Sound signals.* Sound signals shall be used if weather conditions will permit sound signals to be heard by the drawtender or by the vessel operator. A long blast shall be of approximately 3 seconds duration and a short blast shall be of approximately 1 second duration. These blasts may be made by a whistle, horn, or by other similar devices producing sound that can be clearly heard, or by a bell, if specified. In appropriate circumstances, shouting through a megaphone may be employed instead of sounding these signals.

(i) *Signal to request opening of draw.* One long blast followed by one short blast.

(ii) *Acknowledging signal by the drawtender—(a) When the draw will be opened immediately.* One long blast followed by one short blast.

(b) When the draw cannot be opened immediately or is open and must be closed immediately. Four or more short blasts, sounded in rapid succession, repeated at regular intervals until acknowledged by the same signal from the vessel. As soon as the draw can be opened the drawtender shall sound the opening signal and open the draw for any vessels waiting to pass.

(2) *Visual signals.* These visual signals shall be used if weather conditions may prevent sound signals from being heard or if sound producing devices are not properly functioning. Sound signals may be used in conjunction with visual signals.

(i) *Signal to request opening of draw.* A white flag of sufficient size to be readily visible by day or a white light of sufficient intensity to be readily visible by night, raised and lowered vertically in full sight of the drawtender, repeated until acknowledged by the drawtender (Mechanical devices which produce essentially the same signal using fixed and/or flashing lights are permitted).

(ii) *Acknowledging signal by the drawtender—(a) When the draw will be opened immediately.* Same as signal to request opening.

(b) When the draw cannot be opened immediately or is open and must be closed immediately. A red flag of sufficient size to be readily visible by day or a red light of sufficient intensity to be readily visible by night, swung back and forth horizontally in full sight of the vessel, repeated until acknowledged by the vessel with the same signal (Mechanical devices which produce essentially the same signal using fixed and/or flashing lights are permitted). As soon as the draw can be opened, the drawtender shall give the opening signal and open the draw for any vessels waiting to pass.

(3) *Contiguous drawbridges.* When a vessel wishes to pass two or more drawbridges close together, the opening signal shall be given for the first bridge. After acknowledgement from the first bridge that it will be opened promptly, the opening signal shall be given for the secaond bridge and so on until all bridges that the vessel desires to pass have been given the opening signal and have acknowledged that they will be opened promptly.

(4) *Vessels approaching a drawbridge.* When two or more vessels are approaching the same drawbridge at nearly the same time from the same or opposite directions with the draw open or closed, each of these vessels shall signal independently for the opening of the draw, and the drawtender shall reply as prescribed and in turn to the signal of each vessel.

(e) *Bridges where openings may be delayed*—(1) *Monday through Friday delays.* (i) From 7:30 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m. the draws need not be opened for the passage of vessels of the bridges across Ogden Slip at Outer Drive, main river, South Branch from its junction with the Chicago River south to and including West Roosevelt Road and North Branch at West Kinsie Street and at the Northwest Expressway Feeder bridge.

(ii) From 7 a.m. to 8 a.m. and 5 p.m. to 6 p.m. the draws need not be opened for the passage of vessels of the bridges across the North Branch of the Chicago River at Grand Avenue and at all bridges north of the Northwest Expressway Feeder bridge to and including North Halsted Street and across the South Branch of the Chicago River south of West Roosevelt Road to and including South Halsted Street.

(iii) From 7 a.m. to 8 a.m. and 5:30 p.m. to 6:30 p.m. the draws need not be opened for the passage of vessels of the bridges across the North Branch of the Chicago River north of North Halsted Street and the South Branch of the Chicago River south of South Halsted Street.

(2) *From January 1 through March 31, 12 hours' advance notice required.* Constant attendance is not required for the highway bridges across the North Branch of the Chicago River, North

Branch Canal and the South Branch of the Chicago River, North Branch Canal and the South Branch of the Chicago River from January 1 through March 31. The draws shall be opened promptly on signal provided at least 12 hours' advance notice has been given during this period, except that the Randolph Street, Cermak Road, Throop Street and Loomis Street bridges across the South Branch of the Chicago River, and the North Halsted Street bridge across the North Branch Canal bridges shall be opened promptly on signal, except as provided in subparagraph (1) of this paragraph.

(3) *Constant attendance not required.* Constant attendance is not required at the Roosevelt Road, South Canal Street, South Halsted Street, South Ashland Avenue, South Damen Avenue, West Grant Avenue, West Erie Street, North Ogden Avenue North Branch Canal, North Ogden Avenue, North Branch of the Chicago River, West Division Street, North Branch Canal, and West Division Street North Branch of the Chicago River bridges. Roving drawtenders shall open these bridges not more than 30 minutes after notification to the Port Directors Office or an authorized representative.

(4) *The Chicago and North Western railroad bridge across the north branch of the Chicago River at mile 5.06.* The draw shall be opened promptly on signal provided at least 2 hours' advance notice has been given. However the draw need not be opened for the passage of vessels Monday through Friday from 7 a.m. to 8 a.m. and 5:30 p.m. to 6:30 p.m.

(5) *The Chicago, Milwaukee, St. Paul and Pacific railroad bridge across the North Branch Canal.* The draw shall be opened promptly on signal provided at least 1 hours' advance notice has been given.

(6) *Limited vertical clearances.* The draws of bridges that have a vertical clearance of less than 16 feet above the Chicago City Datum shall be opened within 15 minutes of the sounding of the opening signal by a vessel, unless specifically exempted by other requirements set forth in this section.

(7) *Passage of emergency vessels.* The draws of any of the bridges listed in this section shall be opened as soon as possible for the passage of emergency vessels of the city of Chicago or public vessels of the United States notwithstanding any exceptions set forth elsewhere in this section.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 4959), 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before April 23, 1971. All submissions should be made in writing to the Commander, Ninth Coast Guard District, Federal Office Building, Cleveland, OH 44199.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, Ninth Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Chief, Office of Operations, U.S. Coast Guard, Washington, D.C. The Chief, Office of Operations will thereafter make a final determination with respect to these proposals.

Dated: March 10, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Operations.

[FR Doc.71-3748 Filed 3-17-71;8:47 am]

[46 CFR Part 146]

[CGFR 71-18]

DANGEROUS CARGOES CONTAINERS

Notice of Proposed Rule Making

The Coast Guard is considering amending the dangerous cargoes regulations. Labels would not be required on packages comprising shipments received and delivered in carloads or highway truckloads when such shipments are in conformity with applicable provisions of § 146.05-15. A corresponding amendment would be made to § 146.08-31. Also, inhibited acrolein would be authorized for transportation in cylinders (DOT-4B240, 4BA240, 4BW240), portable tanks (DOT-51), and tank cars complying with Department of Transportation regulations. Finally, the use of specification DOT-3A, 3AA, and 3E1800 cylinders would be approved for the transportation of certain class A poisonous liquids or gases.

Interested persons are invited to submit written data, views or comments regarding the proposal to the Commandant (MHM), U.S. Coast Guard, Washington, D.C. 20591. Communications should identify the notice number, CGFR 71-18, any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commentator. The Coast Guard will hold an informal hearing on Tuesday, May 4, 1971, at 9:30 a.m. in Conference Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross-examination of persons presenting statements. Comments received on or before May 11, 1971, or at the hearing will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC, both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

In the Saturday, January 30, 1971, issue of the FEDERAL REGISTER (36 F.R. 1472-1473), the Hazardous Materials Regulations Board published amendments to Parts 173 and 177 of Title 49, Code of Federal Regulations. The first amendment, F.R. Doc. 71-1273 (Docket No. HM-61; Amdt. 173-43), published at page 1472, concerned authorization of the transportation of inhibited acrolein, a flammable liquid, in: (a) Class 105A * * * W tank cars having a minimum test pressure of 300 p.s.i. and stenciled "105A200W"; (b) Specifications 4B240, 4BA240, and 4BW240 welded steel cylinders; and (c) Specification 51 steel portable tanks. For reasons fully stated in the document, the Board approved the amendment for inclusion in § 173.122 of Title 49, Code of Federal Regulations.

The second amendment, F.R. Doc. 71-1272 (Docket No. HM-59; Amdt. 173-42), also published at page 1472, provided for the use of specification DOT-3A, 3AA, and 3E1800 cylinders for the transportation of certain class A poisonous liquids or gases. For reasons fully stated in the document, the Board approved the amendment for inclusion in 49 CFR 173.328(a)(2) and made editorial changes to 49 CFR 173.327 for completeness and consistency with other regulations.

The third amendment, F.R. Doc. 71-1271 (Docket No. HM-28; Amdts. 173-41, 177-15), published at page 1473, removed certain exemptions from the labeling requirements of 49 CFR 173.402 and made corresponding changes in 49 CFR 173.404 and 177.815. The amendment was approved by the Board for reasons fully stated in the document.

The amendments of the hazardous materials regulations of the Department of Transportation in Title 49 would make these changes available to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make these apply to carriers by water.

In consideration of the foregoing, it is proposed to amend Part 146 of Title 46, Code of Federal Regulations, as follows:

Subpart 146.05—Shipper's Requirements Regarding Packing, Marking, Labeling and Shipping Papers

1. Subpart 146.05 is amended by revoking § 146.05–15(h).

Subpart 146.07—Railroad Vehicles, Highway Vehicles, Containers or Portable Tanks Loaded With Explosives or Other Dangerous Articles and Transported on Board Ocean Vessels

1a. Section 146.07–25(b) is amended by revoking the last sentence.

Subpart 146.08—Railroad or Highway Vehicles Loaded With Dangerous Substances and Transported on Board Ferry Vessels

2. Subpart 146.08 is amended by adding § 146.08–31 to read as follows:

§ 146.08–31 Exemptions concerning labeling requirements.

Labels are not required on packages containing explosives or other dangerous articles or substances when the packages are:

(a) Loaded and unloaded under the supervision of Department of Defense personnel and are under escort by Department of Defense personnel in a separate vehicle.

(b) Cylinders containing compressed gases classed as nonflammable, provided that the cylinders are carried by private or contract motor carriers and are not overpacked.

Subpart 146.21—Detailed Regulations Governing Inflammable Liquids

3. Subpart 146.21 is amended for the article "Acrolein (inhibited)" by adding in the 4th column ("Required conditions for transportation—Cargo vessel"), of § 146.21–100 the words reading as follows:

Cylinders (DOT–4B240, 4BA240, or 4BW240) complying with DOT regulations.
Portable tanks (DOT–51) not over 20,000 lbs. gr. wt.
Tank cars complying with DOT regulations (trainship only).

Subpart 146.25—Detailed Regulations Governing Poisonous Articles

4. Subpart 146.25 is amended by revising the 4th column of § 146.25–100 for the articles:

(a) Cyanogen chloride containing less than 0.9 percent water;
(b) Cyanogen gas;
(c) Ethyldichloroarsine;
(d) Lewisite;
(e) Methyldichlorarsine;
(f) Mustard gas;
(g) Phenylcarbylamine chloride; and
(h) Poisonous liquid or gas, N.O.S.

to read as follows:

...	Required conditions for transportation	...
	Cargo vessel	
...		
	Stowage: "On deck under cover." Outside containers: Steel cylinders (DOT–33, 3D) with valve protection cap or when without cap in nonspecification strong wooden boxes marked with prescribed name of contents, prescribed label and the words "This side up" and the notation "Inside packages comply with prescribed specifications." Cylinders (DOT–3A1800, 3AA1800 or 3E1800). Spec. 3A and 3AA cylinders must not exceed 125 pound water capacity (nominal) and must have valve protection or be packed in strong wooden or metal boxes as described in 49 CFR 173.327(a)(2). Spec. 3E1800 cylinders must be packed in strong wooden or metal boxes.	
...		

This proposal is made under authority of R.S. 4405, as amended, R.S. 4417a, as amended, R.S. 4462, as amended, R.S. 4472, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 391a, 416, 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Dated: March 12, 1971.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71–3685 Filed 3–17–71;8:45 am]

Federal Aviation Administration

[14 CFR Parts 61, 91]

[Docket No. 10916; Notice 71–8]

SECOND-IN-COMMAND QUALIFICATIONS AND PILOT-IN-COMMAND PROFICIENCY CHECKS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Parts 61 and 91 of the Federal Aviation Regulations to adopt experience and qualification requirements for pilots serving as second in command, and a proficiency check for pilots in command, of U.S. registered civil aircraft type certificated for more than one required pilot. These proposals cover operations conducted under Part 91 and not pursuant to the certification or operating rules of Parts 121, 123, 127, 133, 135, or 137 of the Federal Aviation Regulations.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before June 16, 1971, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

In recent years both the FAA and Part 121 certificate holders, in recognition of the need to insure that fully qualified pilots are operating the complex aircraft of today, have spent a great deal of time and effort in providing a modern system of pilot training and qualification. As a result of these efforts, the overall safety record of Part 121 certificate holders has steadily improved. However, one area of aviation has faced tremendous growth in recent years, without a concomitant improvement in pilot qualification requirements. This field is comprised of those aircraft type certificated for more than one required pilot and operated in accordance with the rules of Part 91 and not pursuant to the certification or operating rules of Parts 121, 123, 127, 133, 135, or 137. Therefore, in recognition of this large segment of aviation and the introduction to it of more sophisticated aircraft, the FAA considers the proposals herein appropriate in the interest of safety in air commerce.

Specifically, it is proposed to require the second in command of such aircraft to have at least a current private pilot certificate with appropriate category and class ratings, an appropriate instrument rating in the case of flight under IFR, and experience in certain aspects of the position held and the airplane being operated.

In addition, it is proposed to add a new § 61.103 to expressly prohibit a private pilot from acting as second in command of an aircraft type certificated for more than one required pilot if (1) that aircraft is carrying passengers or property for compensation or hire, or (2) he receives compensation for his services as second in command of the aircraft. The FAA believes this extension of a prohibition currently applied to pilots in command will insure that sufficiently qualified pilots occupy both flight crewmember positions in these aircraft.

With regard to specific qualification requirements, it is proposed in § 61.47b to require the second in command pilot of an aircraft certificated for more than one required pilot to be familiar with information concerning powerplants, major systems and components, major appliances, performance and limitations, standard and emergency operating procedures, and the contents of the approved aircraft flight manual, if any. Also, it would require that the second in command perform and log engine-out procedures by maneuvering with an engine out, and execute and log three takeoffs and three full stop landings as the sole

manipulator of the controls. These requirements are considered necessary to familiarize the second in command pilot with the operating characteristics of the type aircraft being flown. The rule as proposed permits the engine-out procedures to be performed in a simulator acceptable to the Administrator for the type of aircraft involved. The qualification requirements of § 61.47b would apply regardless of whether or not the aircraft is used for the carriage of persons or property for compensation or hire, or compensation is received by the second in command for his services.

In order to enable a pilot to meet the proposed requirements for second in command qualification, it is also proposed in § 61.47b to permit him to act as second in command of a flight under day VFR or day IFR, if the flight begins and ends at the same airport, no landings are made elsewhere, and no passengers are carried.

In addition to the foregoing proposals concerning second in command pilots, it is proposed in § 61.47a to require a proficiency check for the pilot in command of an aircraft certified for more than one required pilot. As proposed, the pilot in command of such an aircraft would be required, within the preceding 12 calendar months, to have successfully completed a proficiency check or flight check in an aircraft type certificated for more than one required pilot. He would also be required to have successfully completed, within the preceding 24 calendar months, a proficiency check or a flight check in the particular type of aircraft in which he is to serve.

It is proposed to permit the following checks or tests for either of the proficiency check requirements of § 61.47a: (1) A proficiency check given by an FAA inspector, or a pilot examiner designated by the FAA, which includes the standards, maneuvers and procedures prescribed for the original issuance of a type rating in the type aircraft used; (2) a pilot-in-command proficiency check given under Parts 121, 123, 127, or 135; (3) a flight test to add a type rating to a pilot certificate; (4) a periodic flight check necessary for appropriate pilot examiner or check pilot authority; or (5) a military proficiency check.

As in the case of a second in command pilot, for the purpose of meeting the proficiency check requirement, it is proposed to permit the pilot to act as pilot in command of a flight under day VFR or day IFR, if the flight begins and ends at the same airport, no landings are made elsewhere, and no passengers are carried.

A proficiency check requirement for pilots in command of aircraft with which this notice is concerned will insure that these aircraft will at all times be under the control of a pilot who is adequately familiar with, and qualified to operate, the particular type aircraft involved.

In order to complete the upgrading of qualification requirements for pilots in command, it is proposed to amend the recent experience requirements of § 61.47 (a) to extend the coverage therein to pilots in command of aircraft certificated for more than one required pilot flight crewmember. Again, the provision enabling pilots in command and seconds in command to comply with proposals made herein, would be applicable to paragraph (a) of § 61.47.

Finally, it is proposed to adopt a new § 91.4 to place responsibility on the operator of aircraft to which this proposal applies to assure that the pilot flight crewmembers meet, as appropriate, the requirements of proposed §§ 61.47a and 61.47b.

In addition, the pilot in command would be responsible for determining that the second in command is familiar with the aircraft and with the procedures the second in command will use.

In consideration of the foregoing, it is proposed to amend Parts 61 and 91 of the Federal Aviation Regulations as follows:

1. By amending paragraph (a) of § 61.47 to read as follows:

§ 61.47 Recent experience.

(a) No person may act as pilot in command of an aircraft carrying passengers, nor of an aircraft certificated for more than one required pilot flight crewmember, unless, within the preceding 90 days, he has made at least five takeoffs and five landings to a full stop in an aircraft of the same category, class, and type. This paragraph does not apply to operations requiring an airline transport pilot certificate, nor to operations conducted under Part 135. For the purpose of meeting the requirements of this paragraph, a person may act as pilot in command of a flight under day VFR or day IFR, if the flight begins and ends at the same airport, no landings are made elsewhere, and no passengers are carried.

* * * * *

2. By inserting a new §§ 61.47a and 61.47b immediately following § 61.47 to read as follows:

§ 61.47a Pilot in command proficiency check: operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (d) of this section (12 months after the effective date of this section), no person may act as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember unless he has satisfactorily completed the proficiency checks or flight checks prescribed in paragraphs (b) and (c) of this section.

(b) Since the beginning of the 12th month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have completed one of the following proficiency or flight checks in an aircraft that is type certificated for more than one required pilot crewmember:

(1) A proficiency check given to him by an FAA inspector or a designated flight examiner which includes the maneuvers, procedures, and standards required for the original issuance of a type rating for the aircraft used in the check.

(2) A pilot in command proficiency check given to him in accordance with the provisions for that check under Parts 121, 123, or 135 of this chapter. However, in the case of a person acting as pilot in command of a helicopter he may also complete a proficiency check given to him in accordance with Part 127 of this chapter.

(3) A flight test required for an additional type rating for an aircraft.

(4) An initial or periodic flight check required for a pilot examiner or check pilot.

(5) A military proficiency check required for pilot in command and instrument privileges.

(c) Since the beginning of the 24th month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have completed one of the proficiency checks or flight checks prescribed in paragraph (b) (1) through (5) of this section in the particular type aircraft in which he is to serve as pilot in command.

(d) This section does not apply to persons conducting operations subject to Parts 121, 123, 127, 133, 135, and 137 of this chapter.

(e) If a pilot takes the proficiency check required by paragraph (a) of this section in the calendar month before, or the calendar month after, the month in which it is due, he is considered to have taken it in the month it is due.

§ 61.47b Second-in-command qualifications: operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (d) of this section, (90 days after the effective date of this section), no person may act as second in command of an aircraft type certificated for more than one required pilot flight crewmember, unless he holds—

(1) At least a current private pilot certificate with appropriate category and class ratings; and

(2) An appropriate instrument rating in the case of flight under IFR.

(b) Except as provided in paragraph (d) of this section, (90 days after the effective date of this section, no person may serve as second in command of an aircraft type certificated for more than one required pilot flight crewmember unless, since the beginning of the 12th calendar month before the month in which he serves, he has, with respect to that type aircraft:

(1) Familiarized himself with all information concerning the aircraft's powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operating procedures, and the contents of the approved airplane flight manual.

(2) Performed and logged—

(i) Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; and

(ii) Engine-out procedures and maneuvering with an engine out while executing the duties of a pilot in command. This requirement may be satisfied in an aircraft simulator acceptable to the Administrator.

For the purpose of meeting the requirements of subparagraph (2) of this paragraph, a person may act as second in command of a flight under day VFR or day IFR, if the flight begins and ends at the same airport, no landings are made elsewhere, and no passengers are carried.

(c) If a pilot complies with the requirements in paragraph (b) of this section in the calendar month before, or the calendar month after, the month in which compliance with those requirements is due, he is considered to have complied with them in the month they are due.

(d) This section does not apply to a pilot who meets the pilot-in-command proficiency check requirements of § 61.47a nor to operations conducted under Parts 121, 123, 127, 133, 135, and 137 of this chapter.

2. By amending the caption of § 61.101 to read:

§ 61.101 General privileges and limitations: pilot in command.

* * * * *

3. By adding a new § 61.103 immediately following § 61.101 to read as follows:

§ 61.103 General privileges and limitations: second in command of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (b) of this section, a private pilot may not, for compensation or hire, act as second in command of an aircraft that is type certificated for more than one required pilot, nor may he act as second in command of such an aircraft that is carrying passengers or property for compensation or hire.

(b) A private pilot may act as the second in command of an aircraft that is type certificated for more than one required pilot flight crewmember if he is authorized to act as pilot in command of an aircraft under subparagraphs (1) through (5) of § 61.101(a).

4. By inserting a new § 91.4 immediately following § 91.3 to read as follows:

§ 91.4 Pilot in command and second in command of aircraft requiring more than one required pilot.

No person may operate an aircraft that is type certificated for more than one required pilot flight crewmember unless—

(a) The pilot flight crew of the aircraft consists of a pilot in command and a second in command who meet the requirements of §§ 61.47a and 61.47b of this chapter, as applicable; and

(b) The pilot in command has determined that the second in command meets the requirements of § 61.47b(b)(2) of this chapter and has adequate knowledge and familiarity with the aircraft and the procedures to be used by him.

These amendments are proposed under the authority of sections 313(a), 314, and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).

Issued in Washington, D.C., on March 11, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.71-3749 Filed 3-17-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-18]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

Correction

In F.R. Doc. 71-3365 appearing on page 4708 in the issue of Thursday, March 11, 1971, the first line of the control zone description reading "Within a 6-mile radius of the center," should read "Within a 5-mile radius of the center,".

[14 CFR Part 71]

[Airspace Docket No. 71-WA-10]

POSITIVE CONTROL AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to expand the positive control area from flight level 240 to 18,000 feet MSL in the Western United States.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received within 60 days after publication of this notice will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

Area Positive Control (APC) is presently designated throughout most of the United States as that part of the Continental Control Area between flight level 240 and flight level 600. In a rule adopted November 9, 1967 (32 F.R. 13270), the vertical limits of APC were lowered to 18,000 feet MSL in the northeast and part of the north central United States. It was stated in the notice of proposed rule making (32 F.R. 7219) that separate actions to lower the floor of positive control area in other sections of the country may be proposed as the Federal Aviation Administration attains the capability to provide positive control service therein. The FAA has determined that it now has the capability to provide positive control services in the western United States.

The action proposed herein would designate as positive control area that airspace within the continental control area from 18,000 feet MSL to flight level 240 bounded by a line beginning at:

Lat. 43°00'00" N., long. 99°00'00" W. thence to lat. 43°21'00" N., long. 100°19'00" W., lat. 44°20'00" N., long. 101°00'00" W., lat. 44°37'-00" N., long. 101°00'00" W., lat. 45°07'00" N., long. 104°15'00" W., lat. 45°14'15" N., long. 106°00'00" W., lat. 46°05'00" N., long. 106°-00'00" W., lat. 46°50'00" N., long. 109°35'00" W., lat. 46°15'00" N., long. 111°00'00" W., lat. 46°25'00" N., long. 115°00'00" W., thence to lat. 45°30'00" N., long. 115°00'00" W., lat. 45°30'00" N., long. 117°30'00" W., lat. 44°-37'00" N., long. 119°21'00" W., lat. 44°28'00" N., long. 119°24'00" W., lat. 44°30'00" N., long. 119°35'00" W., lat. 42°40'00" N., long. 119°00'00" W., lat. 41°00'00" N., long. 119°-30'00" W., lat 41°00'00" N., long. 121°15'00" W., lat. 41°20'00" N., long. 122°25'00" W., lat. 41°20'00" N., long. 123°30'00" W., lat. 41°19'30" N., long. 124°08'55" W., thence via a line three nautical miles from the coastline to lat. 32°31'00" N., long. 117°11'00" W., thence along the U.S./Mexican border to lat. 32°15'00" N., long. 114°00'00" W., lat. 34°-02'00" N., long. 114°00'00" W., lat. 34°11'00" N., long. 113°30'00" W., lat. 34°58'00" N., long. 113°30'00" W., lat. 35°23'00" N., long. 112°40'00" W., lat. 35°26'00" N., long. 112°-00'00" W., lat. 35°26'00" N., long. 110°00'00" W., lat. 36°43'00" N., long. 106°05'00" W., lat. 36°43'00" N., long. 105°00'00" W., lat. 37°30'00" N., long. 102°33'00" W., lat. 38°28'-00" N., long. 101°50'00" W., lat. 38°36'00" N., long. 101°28'00" W., lat. 38°49'00" N., long. 100°50'00" W., lat. 38°56'00" N., long. 99°42'00" W., lat. 39°23'00" N., long. 99°04'-00" W. to point of beginning, excluding the Santa Barbara Islands and Farrallon Island.

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 section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 12, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-3751 Filed 3-17-71;8:48 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 71-228]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Premium Adjustments Following Mergers, Consolidations, or Purchases of Bulk Assets

MARCH 11, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 563.16 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.16) for the purpose of establishing a completion date for the computation of premium payments following mergers, consolidations, or purchases of bulk assets. Accordingly, the Federal Home Loan Bank Board proposes to amend said section by revising it to read as follows:

§ 563.16 Premiums in mergers, consolidations, or purchases of bulk assets.

In the event of the purchase of bulk assets by an insured institution or of the absorption by an insured institution of another institution through merger or consolidation and the issuance of accounts of an insurable type in connection therewith, such insured institution will be billed for an additional premium based upon the aggregate of the increase of its accounts of an insurable type issued in connection with such transaction. Such premium shall be computed at the rate prescribed by law and shall be that proportion of the amount so computed which the unexpired portion of such insured institution's insurance year bears to its entire insurance year. For the purpose of computing such additional premium and as the basis for such computation, such merger, consolidation, or purchase of bulk assets shall be deemed completed upon the last day of the month in which the Board grants its approval: *Provided, however,* That if the institution which is absorbed by such insured institution by such merger, consolidation, or purchase of bulk assets is an insured institution, the insured institution which has so absorbed such other insured institution shall receive a credit upon its future premiums of the unearned portion of any premium of such absorbed institution to the extent that the same has been paid, and the unearned portion of any premium of such absorbed institution shall, to the extent the same has been paid, be canceled.

(Sec. 404, 48 Stat. 1258, as amended; 12 U.S.C. 1727. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by April 19, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.71-3786 Filed 3-17-71;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

Antidumping Proceeding Notice

MARCH 9, 1971.

On November 20, 1970, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that railway track maintenance equipment from Austria is being, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows: The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home comsumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71-3791 Filed 3-17-71;8:50 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[Marketing Agreement 146]

1969 CROP PEANUTS

Indemnification

Pursuant to the provisions of section 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found that the further amendment hereinafter set forth to the Terms and Conditions of Indemnification Applicable to 1969 Crop Peanuts (34 F.R. 11152; 35 F.R. 3765) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Prior amendment of the Terms and Conditions (35 F.R. 3765) was necessary to permit indemnification of handlers (who filed claims therefor during the period of February 27 through March 26, 1970), sustaining losses due to rejections not recognized in the original issuance. Such rejections occurred on lots of peanuts that were unwholesome due to aflatoxin and the peanuts had been custom blanched to remove the aflatoxin; and in some instances, the custom blanching apparently caused the products made from such peanuts to have an undesirable flavor. As a consequence, the manufacturer withheld the product (including any portion thereof that was returned to the manufacturer) from the market and, to cover his loss, rejected the handler invoice on the peanuts or claimed reimbursement. One handler was involved in such a loss during the early months of 1970 and his claim was covered by the prior amendment. However, since that time another handler was involved in a similar loss and filed a claim for indemnification subsequent to the prescribed filing period in the prior amendment. To effectuate the purpose of the amendment, it is necessary to extend the time for the filing of proper claims for indemnification.

Therefore, the first sentence of the eighth paragraph of the Terms and Conditions of Indemnification Applicable to 1969 Crop Peanuts (34 F.R. 11152; 35 F.R. 3765) is revised to read as follows: "Claims for indemnification on 1969 crop peanuts may be filed by December 1, 1970, by any handler sustaining a loss as a result of a buyer withholding from human consumption a portion or all the product made from a lot of peanuts which had been custom blanched pursuant to these terms and conditions."

This amendment should be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with indemnification, and no useful purpose will be served by any postponement thereof. Marketing of the 1969 peanut crop is completed and one handler who sustained a loss of the type covered by the prior amendment had filed a claim for indemnification is involved. Hence, this amendment should be effective as soon as possible, i.e., on the effective date specified herein. Handlers of peanuts who will be affected by such amendment have signed the marketing agreement authorizing the issuance of such terms and conditions, they are represented on the Committee which recommended the amendment, and time does not permit prior notice of the proposed amendment to such handlers.

The foregoing amendment is hereby approved and issued this 15th day of March 1971, to become effective upon publication in the FEDERAL REGISTER (3-18-71).

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

[FR Doc.71-3800 Filed 3-17-71;8:51 am]

EGG PRICES AND MARKET CONDITIONS

Requests for Comments on Market News; Additional Time for Comments

On March 9, 1971, a notice of requests for comments on market news reporting egg prices and market conditions was published in the FEDERAL REGISTER (36 F.R. 4552). The notice contained a request by the United Egg Producers for USDA to consider major changes in the reporting of market prices of shell eggs.

The notice provided for interested parties to submit comments by March 20, 1971. Requests have been received to provide an additional period for submission of comments regarding market news reporting. Therefore, notice is hereby given to provide for an additional period of time until May 1, 1971, for submitting comments.

All persons who desire to submit written data, views, or arguments in connection with the request for comments on market news reporting shall file the same in triplicate with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, no later than May 1, 1971.

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)).

Done at Washington, D.C., this 15th day of March 1971.

CLAYTON YEUTTER,
Administrator, Consumer and Marketing Service.

[FR Doc.71-3801 Filed 3-17-71;8:51 am]

Office of the Secretary

MEAT IMPORT LIMITATIONS

First Quarterly Estimates

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar

year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following first quarterly estimates for 1971 are published:

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1971 is 1,160.0 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1970 is 1,025.0 million pounds.

Since the estimated quantity of imports exceeds 110 percent of the estimated quantity prescribed by section 2(a) of the Act, limitations for the calendar year 1971 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20), are required to be imposed unless suspended by the President pursuant to section 2(d) of Public Law 88-482.

Done at Washington, D.C., this 26th day of February 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[FR Doc.71-3743 Filed 3-17-71;8:47 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-548]

GUDMUN JOHANNESSEN AND THOMAS LOVVOLD

Notice of Loan Application

MARCH 11, 1971.

Gudmun Johannessen and Thomas Lovvold, 1091 Irving Avenue, Astoria, OR 97103, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 50.4-foot registered length wood vessel to engage in the fishery for albacore and yellowfin tuna, salmon, and Dungeness crab in the Washington, Oregon, and California area.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-3725 Filed 3-17-71;8:46 am]

[Docket No. S-547]

TERRY L. LEARNED

Notice of Loan Application

MARCH 11, 1971.

Terry L. Learned, Route 2, Box A-1, Cloverdale, OR 97112, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 38-foot length overall wood vessel to engage in the fishery for salmon, albacore, and bottomfish off the coasts of Oregon, Washington, and California.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-3724 Filed 3-17-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-376]

PUERTO RICO WATER RESOURCES AUTHORITY

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matter

The Puerto Rico Water Resources Authority, General Post Office Box 4267, San Juan, PR 00936, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated November 28, 1970, for authorization to construct a pressurized water nuclear reactor, designated as the Aguirre Nuclear Station Unit 1, on the applicant's site in Barrio Aquirre, Salinas, P.R.

The site is located on the southern coast of Puerto Rico along the shore of Bahia De Jobos, and is within the municipality of Salinas.

The proposed nuclear station will consist of a pressurized water nuclear reactor, which is designed for initial operation at approximately 1785 thermal megawatts with a net electrical output of approximately 583 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after March 18, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and in the Office of the Mayor of the Municipality of Salinas, Salinas, P.R.

Dated at Bethesda, Md., this 24th day of February 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-2835 Filed 3-17-71;8:45 am]

[Dockets Nos. 50-369, 50-370]

DUKE POWER CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matter

The Duke Power Co., 422 South Church Street, Charlotte, N.C. 28201, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated September 18, 1970, for permits to construct and licenses to operate two pressurized water nuclear reactors, designated as the William B. McGuire Nuclear Station Units 1 and 2, on the applicant's site in Mecklenburg County, N.C. The site is located on the shore of Lake Norman, approximately 17 miles north-northwest of Charlotte, N.C., and is immediately east of Duke Power Co.'s Cowan Ford Hydroelectric Station.

The proposed nuclear station will consist of two pressurized water reactors, each of which is designed for initial operation at approximately 3,411 thermal megawatts with a net electrical output of approximately 1,180 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after March 11, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Office of the County Manager, Mecklenburg County, 720 East 4th Street, Charlotte NC.

Dated at Bethesda, Md., this 25th day of February 1971.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Acting Director,
Division of Reactor Licensing.

[FR Doc.71-3286 Filed 3-10-71;8:45 am]

[Dockets Nos. 50-352, 50-353]

PHILADELPHIA ELECTRIC CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

Philadelphia Electric Co., 1000 Chestnut Street, Philadelphia, PA 19105, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated February 26, 1970, for authorization to construct and operate two single cycle, forced circulation, boiling water nuclear reactors on the applicant's site of approximately 587 acres located on the Schuylkill River about 1.7 miles southeast of Pottstown, in Limerick Township, Montgomery County, Pa.

The proposed nuclear reactors, designated by the applicant as the Limerick Generating Station Units 1 and 2, are each designed for initial operation at approximately 3,293 megawatts (thermal) with a net electrical output of approximately 1,100 megawatts per unit.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after February 25, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Public Library, 500 High Street, Pottstown, PA.

Dated at Bethesda, Md., this 17th day of February 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-2404 Filed 2-24-71;8:45 am]

[Dockets Nos. 50-354, 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

Public Service Electric and Gas Co., 80 Park Place, Newark, NJ 07101, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated February 26, 1970, for authorization to construct and operate two single cycle, forced circulation, boiling water nuclear reactors on the applicant's site of approximately 530 acres located in Bordentown Township, Burlington County, N.J. The proposed site is situated on Newbold Island, which is in the Delaware River approximately 5 miles south of the city limits of Trenton, N.J., and approximately 11 miles northeast of the Philadelphia city limits.

The proposed nuclear reactors, designated by the applicant as the Newbold Island Nuclear Generating Station, are each designed for initial operation at approximately 3,293 megawatts (thermal) with a net electrical output of approximately 1,088 megawatts per unit.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after February 25, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Offices of the Public Service Electric and Gas Co. located at 222 East State Street, Trenton, NJ, and at 437 High Street, Burlington, NJ.

Dated at Bethesda, Md., this 17th day of February 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-2405 Filed 2-24-71;8:45 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Order Extending Provisional Operating License Expiration Date

Power Reactor Development Co. has filed a request dated December 29, 1970, and supplement dated January 28, 1971, for an extension of the expiration date of Provision Operating License No. DPR-9 which authorizes the possession and operation of the Enrico Fermi Atomic Power Plant, a sodium-cooled fast breeder reactor, at thermal power levels not to exceed 200 megawatts located in Monroe County, Mich. Good cause having been shown in the application for this extension pursuant to paragraph 5 of said license and Part 50 of the Commission's regulations in 10 CFR: *It is hereby ordered,* That the expiration date of Provisional Operating License No. DPR-9 is extended from January 31, 1971, to June 30, 1971.

Dated at Bethesda, Md., this 9th day of March 1971.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[FR Doc.71-3718 Filed 3-17-71;8:45 am]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Order Extending Provisional Operating License Expiration Date

By petition notarized February 2, 1971, the Rochester Gas and Electric Corporation of Rochester, N.Y., requested an extension of the expiration date of Provisional Operating License No. DPR-18 which authorizes possession, use and operation of its R. E. Ginna Nuclear Power Plant Unit No. 1 located in Wayne County, N.Y., at power levels up to a maximum of 1,300 megawatts (thermal).

Good cause having been shown in the petition for this extension pursuant to 10 CFR Part 50 and the provision of paragraph 5 of the license: *It is hereby ordered,* That the expiration date of Provisional Operating License No. DPR-18 is extended from March 19, 1971, to September 19, 1972.

Dated at Bethesda, Md., this 5th day of March 1971.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[FR Doc.71-3719 Filed 3-17-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 23137, 21866; Order 71-3-80]

AMERICAN AIRLINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of March 1971.

By tariff revision [1] marked to become effective March 14, 1971, American Airlines, Inc. (American), proposes to establish a coach/economy lounge in its dual and triple configured B-747 aircraft. The lounge is to contain 17 seats, all of which are to be withheld from sale.

Trans World Airlines, Inc. (TWA), has filed a complaint requesting investigation and suspension. It is alleged that the proposal will necessitate removal of up to 40 seats; that this coupled with the fact that the seats would be withheld from sale will result in underutilization of B-747 capacity; and that American is attempting to gain a competitive advantage which could have a potentially adverse impact on all B-747 operators by increasing unit costs. Delta Air Lines, Inc. (Delta) has filed an answer in support of TWA's complaint, alleging essentially that seating configurations have a way of becoming "writ in stone"; and that if other carriers were forced to follow suit the B-747 could be frozen for years into wasteful underutilization of capacity, thereby preventing this aircraft's economic potential from ever being realized.

In answer to the complaint, American alleges that the B-747 has not lived up to expectations in terms of passenger appeal, and that until it becomes more attractive carriers will be reluctant to retire older aircraft and thereby alleviate airport congestion. It is further alleged that the proposed reconfiguration will result in a loss of only 13 seats available for sale; that the issue of withholding the lounge seats from sale is academic at

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 65.

today's load factors; that its lounge seats cannot be sold because they do not satisfy FAA standards for takeoff and landing; and that the lounge can be withdrawn within 48 hours and replaced by normal coach seats when demand so justifies.

Upon consideration of the tariff filing, the complaint and answer thereto, and other relevant matters, the Board finds that the complaint does not set forth sufficient facts to warrant suspension. Seating configurations are already under investigation in the Domestic Passenger-Fare Investigation, Docket 21866. If it does not prove possible to resolve the issues relating to American's present proposal in the course of the Passenger-Fare case, however, the Board intends at a subsequent time to issue an order setting down a separate investigation. In our view, it will be essential to explore the long-run implications of a possible trend toward removing substantial numbers of salable seats from this aircraft for a future period when renewed traffic growth will again begin to put pressure on capacity.

The primary issue raised by American's proposal is whether or not it should be permitted to withhold the lounge seats from sale. In the past, where lounges have been provided in coach/economy service the seats have been available for sale as necessary to accommodate traffic demand. However, in light of the current disparity between traffic and capacity, we do not believe that as a practical matter withholding the lounge seats from sale will undermine the economics of B-747 coach service at this time. We are also influenced by the fact that the lounge unit to be used by American can be replaced by normal coach seats within a relatively short period of time, should traffic demand during certain periods or on certain routes so justify.

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

It is ordered, That:

1. The complaint of Trans World Airlines, Inc., in Docket 23137 is hereby dismissed; and

2. A copy of this order be served upon American Airlines, Inc., Delta Air Lines, Inc., and Trans World Airlines, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3793 Filed 3-17-71;8:50 am]

[Docket No. 19078]

NORTHEAST CORRIDOR VTOL INVESTIGATION

Notice of Prehearing Conference

Phase II (see Orders 70-9-44; 70-11-111; 71-1-74; and 71-2-45).

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned for May 11, 1971, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner William H. Dapper.

Requests for information and evidence, proposed statements of issues, and procedural dates shall be filed by counsel for the Bureau of Operating Rights on or before April 26, 1971, and by other parties on or before May 5, 1971.

Dated at Washington, D.C., March 12, 1971.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[FR Doc.71-3792 Filed 3-17-71;8:50 am]

[2] Concurring statement of Member Murphy filed as part of the original document.

ENVIRONMENTAL PROTECTION AGENCY

CHEVRON CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1101) has been filed by the Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94804 proposing the establishment of a tolerance (21 CFR Part 420) for negligible residues of the herbicide diquat in water at 0.01 part per million calculated as the cation and resulting from use of its dibromide salt in the control of aquatic weeds.

The analytical method proposed in the petition for determining residues of the herbicide is a colorimetric procedure in which the residues are reduced by sodium dithionite to an unstable free radical having an intense green color and strong absorption peak at 377 nanometers.

Dated: March 15, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-3744 Filed 3-17-71;8:47 am]

PPG INDUSTRIES, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1103) has been filed by PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222, proposing the establishment of an exemption from the requirement of a tolerance (21 CFR Part 420) for residues of dimethyl dialkylammonium chloride when present with silica and hydrated silica in pesticide formulations applied to raw agricultural commodities.

The analytical method proposed in the petition for determining residues of dimethyl dialkylammonium chloride is the procedure of L. D. Metcalfe, J. Am. Oil Chemists Society, *40*, 25 (1963).

Dated: March 15, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-3745 Filed 3-17-71;8:47 am]

O,O - DIETHYL S - (2 - CHLORO - 1 - PHTHALIMIDOETHYL) PHOSPHORODITHIOATE

Notice of Establishment of Temporary Tolerance

Hercules Inc., Wilmington, DE 19899, submitted to the Food and Drug Administration a petition requesting temporary tolerances for residues of the insecticide *O,O*-diethyl *S*-(2-chloro-1-phthalimidoethyl) phosphorodithioate and its oxygen analog *O,O*-diethyl *S*-(2-chloro-1-phthalimidoethyl) phosphorothioate in or on the raw agricultural commodities grapes and pecans.

The Reorganization Plan No. 3 of 1970 published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(l) of that Act (21 U.S.C. 346a(l)), and under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135-135k) were also transferred to the Administrator.

The Fish and Wildlife Service, U.S. Department of Interior, advised that it has no objection to these temporary tolerances.

It has been determined that temporary tolerances for residues of the insecticide and its oxygen analog in or on grapes at 1.5 parts per million and in or on pecans at 0.01 part per million are safe and will protect the public health. These temporary tolerances are therefore established as requested on condition that the insecticide is used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Hercules Incorporated name. These temporary tolerances will expire March 15, 1972.

This section is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and pursuant to Reorganization Plan No. 3 of 1970 (35 F.R. 15623) and under authority delegated to the Commissioner or Acting Commissioner, Pesticides Office of the Environmental Protection Agency (36 F.R. 1228).

Dated: March 15, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-3746 Filed 3-17-71;8:47 am]

NEODECANOIC ACID

Notice of Establishment of Temporary Tolerance

Agway Inc., Box 1333, Syracuse, NY 13201, submitted to the Food and Drug Administration a petition requesting a temporary tolerance for residues of the desiccant and defoliant neodecanoic acid (a mixture of 10-carbon trialkyl acetic acids (calculated as $C_9H_{19}COOH$)) in or on the raw agricultural commodity onions (dry bulbs only).

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). The functions vested in the Secretary of Agriculture and the Department of Agriculture under section 408(1) of that Act (21 U.S.C. 346a(1)) and under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135–135k) were also transferred to the Administrator.

The Fish and Wildlife Service, U.S. Department of Interior, advised that it has no objection to this temporary tolerance.

It has been determined that a temporary tolerance of 2 parts per million for residues of neodecanoic acid in or on onions (dry bulbs only) is safe and will protect the public health. It is therefore established as requested on condition that the desiccant and defoliant is used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Agway, Incorporated name. This temporary tolerance will expire March 15, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and pursuant to Reorganization Plan No. 3 of 1970 (35 F.R. 15623), and under authority delegated by the Administrator to the Commissioner or Acting Commissioner, Pesticides Office of the Environmental Protection Agency (36 F.R. 1228).

Dated: March 15, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-3747 Filed 3-17-71;8:47 am]

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE, LTD., AND AMERICAN PRESIDENT LINES, LTD.

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 1202; 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. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, CA 94108.

Agreement No. 9936 is a transshipment agreement covering the transportation of cargo from American Mail Line's ports of call in Oregon, Washington, and Alaska to American President Lines' ports of call in Vietnam with transshipment in Hong Kong or ports in Japan.

Dated: March 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-3794 Filed 3-17-71;8:50 am]

CEYLON/U.S.A. 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 1202; 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:

William L. Hamm, Secretary, Ceylon/U.S.A. Conference, 25 Broadway, New York, NY 10004.

Agreement No. 8050-8, among the member lines of the Ceylon/U.S.A. Conference, modifies the basic conference agreement by adding a new paragraph 3 to Clause 7 thereof which provides that every application for conference membership shall be accompanied by agreement to pay into the conference funds a nonreimbursable admission fee of $5,000.

Dated: March 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-3795 Filed 3-17-71;8:51 am]

CITY OF LONG BEACH AND KAWASAKI KISEN KAISHA, LTD.

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 1202; 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 indicted hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Leonard Putnam, City Attorney, City of Long Beach, Suite 600, City Hall, Long Beach, CA 90802.

Agreement No. T-2491, between the city of Long Beach (City) and Kawasaki Kisen Kaisha, Ltd. (K Line), is a 5-year nonexclusive preferential assignment agreement that provides for the use of the wharf and contiguous wharf premises, together with improvements, located at Berth 234, Pier J, at the city of Long Beach, Calif. K Line is also granted an option for additional space on terms outlined in the agreement. K Line will use the premises to operate a proprietary or contract container terminal, including the furnishing of warehousing, rail and truck facilities for the assembly, distribution, loading and unloading, etc., of cargo both in containers and out of containers. K Line will either file a tariff of charges, or, in lieu thereof, elect to use and be bound by the Port of Long Beach tariff. In the event K Line publishes a tariff, all charges shall conform as nearly as possible with like charges enacted by the city and no changes shall be made in its tariff without the prior written approval of the city. As compensation, K Line may choose to either pay on a straight compensation basis or on a minimum-maximum basis on terms outlined in the agreement. K Line will pay city's applicable tariff charges for the use of the premises, which, will be credited toward the minimum-maximum compensation. K Line, at its own cost and expense will furnish wharf cranes on rails to be installed by the city, such cranes being the personal property of K Line. Agreement No. T-2491 is intended to supersede F.M.C. Agreement No. T-2400, which was assigned to K Line as of January 13, 1971.

Dated: March 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-3797 Filed 3-17-71;8:51 am]

CITY OF LONG BEACH ET AL.

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 1202; 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 request 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. Leonard Putnam, City Attorney, City of Long Beach, Suite 600, City Hall, Long Beach, CA 90802.

Agreement No. T-2400-A, between the the City of Long Beach (City), Kerr Steamship Co., Inc. (Kerr) and Kawasaki Kisen Kaisha, Ltd. (K Line), provides for the termination of lease Agreement No. T-2400, a preferential assignment agreement between the City and Kerr, which Kerr recently assigned to K Line, as allowed under the provisions of the agreement. Agreement No. T-2400-A has been filed concurrently with lease Agreement No. T-2491, between the City and K Line, and will become effective upon the approval of Agreement No. T-2491.

Dated: March 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-3796 Filed 3-17-71;8:51 am]

GULF/MEDITERRANEAN PORTS 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 1202; 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:

John T. Crook, Chairman, Gulf/Mediterranean Ports Conference, Suite 927, Whitney Building, New Orleans, LA 70130.

Agreement No. 134-34 modifies the Conference's self-policing provisions to include the mandatory provisions required by the Commission's General Order 7 as revised on October 27, 1970.

Dated: March 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-3798 Filed 3-17-71;8:51 am]

MONTSHIP LINES, LTD., AND GESTIONI ESERCIZIO NAVI SICILIA—G.E.N.S.

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 1202; 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 10 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 application to temporarily reinstate Agreement No. 9426 filed by:

Edwin Longcope, Esq., Hill, Betts & Nash, 26 Broadway, New York, NY 10004.

Agreement No. 9426 established a joint service between the above carriers known as the "Montship-Capo Great Lakes Service" to operate in the trades between Canadian Atlantic Coast ports and Canadian and U.S. Great Lakes ports, on the one hand, and ports in the Mediterranean Sea, Iberian Peninsula and North Africa, on the other. The agreement was approved on June 1, 1965, for a period of five (5) years commencing on January 1, 1965.

Because of confusion as to the date of approval, the parties allowed the agreement to expire by its terms on January 1, 1970, but continued to operate thereunder.

Being only recently made aware of its expiration, the parties have filed an application with the Commission requesting that the agreement be reinstated for a period of 30 days within which they plan to refile it for a further period not to exceed three (3) years.

Dated: March 15, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-3799 Filed 3-17-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-214]

EL PASO NATURAL GAS CO.

Notice of Application

MARCH 9, 1971.

Take notice that on March 2, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. CP71-214 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1971, and operation of a maximum of 45,000 compressor brake horsepower on its San Juan Basin gathering system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose for the construction of the additional compressor facilities proposed herein is to alleviate the progressive reduction in deliverability resulting from declines in reservoir pressures as experienced in the San Juan Basin gas producing formations located in Colorado and New Mexico. Applicant proposes to install, as may be necessary, at unspecified locations, additional compressor horsepower, not to exceed 45,000 brake horsepower, to maintain the required deliverability of 1,700,000 Mcf of natural gas daily from the subject area throughout the 1971-72 heating season. Applicant states that it also intends to construct certain auxiliary facilities within the contemplation of § 2.55(a) of the Commission's general policies and interpretations. Applicant further states that the additional 45,000 compressor brake horsepower, if necessary, would cost not more than $11,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3726 Filed 3-17-71;8:46 am]

[Docket No. CP71-213]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

MARCH 9, 1971.

Take notice that on March 1, 1971, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP71-213 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transfer of six 1,100 horsepower compressor units, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to transfer six 1,100 horsepower compressor units from its St. Martinville, La., compressor station to its Appleton, Wis., compressor station.

Applicant was authorized to install two 9,100 horsepower compressor units at its St. Martinville compressor station in an order issued by the Commission on December 30, 1970, in Docket No. CP70-163. Applicant states that the completion of these two 9,100 horsepower units would permit the transfer of the existing six 1,100 horsepower units. Applicant was authorized to install two 2,750 horsepower compressor units at its new Appleton compressor station in an order issued by the Commission on April 30, 1970, in Docket No. CP70-21.

Applicant states that Appleton is a low load factor station and is particularly suitable for the installation of the six 1,100 horsepower units available from the St. Martinville station. Applicant also states that these six units could be transferred to the Appleton station at a cost of $623,830, which cost is less than the $1,856,400 cost for the two 2,750 horsepower units heretofore authorized. Accordingly, applicant requests authorization to transfer the six 1,100 horsepower units from the St. Martinville station to the Appleton station.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3727 Filed 3-17-71;8:46 am]

[Docket No. CP71-216]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

MARCH 11, 1971.

Take notice that on March 4, 1971, Mountain Fuel Supply Co. (applicant), 180 East First South, Salt Lake City, UT 84111, filed in Docket No. CP71-216 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two 3,000-horsepower compressor units, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct one 3,000-horsepower compressor unit at its existing Eakin Compressor Station in Uinta County, Wyo., and one 3,000-horsepower compressor unit at a new compressor station on its main gathering pipeline near the Canyon Creek field in Sweetwater County, Wyo. Applicant states that the deliverability of gas supply sources close to its market area are declining. In order to provide the additional gas supply necessary to compensate for this decline, distant supply sources will be employed and additional compressor facilities will be required to meet peak load requirements

Applicant estimates that the total cost of the facilities proposed herein will be about $1,385,000 which cost is to be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3770 Filed 3-17-71;8:49 am]

[Docket No. CP71-217]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

MARCH 11, 1971.

Take notice that on March 8, 1971, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP71-217 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon 3.84 miles of 24-inch pipeline and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 3.84 miles of 42-inch pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to replace 3.84 miles of 24-inch pipeline with an equal length of 42-inch pipeline on its Crawford pipeline in Will County, Ill. Applicant states that the flow requirements of the Crawford lines now exceed the capacity of the present 24-inch line and the replacement proposed herein is part of a continuing program to replace, with 42-inch pipeline, the 35.7 miles of applicant's No. 1 Crawford line.

The estimated cost of the facilities proposed herein, including the cost of the proposed abandonment is $1,600,000 which cost applicant states will be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and 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,
Acting Secretary.

[FR Doc.71-3771 Filed 3-17-71;8:49 am]

[Docket No. CP71-215]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

MARCH 11, 1971.

Take notice that on March 4, 1971, Texas Gas Transmission Corp. (applicant), 3800 Frederica Street, Owensboro, KY 42301, filed in Docket No. CP71-215 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing May 30, 1971, and operation of certain natural gas facilities to enable applicant to take into its pipeline system natural gas which will be purchased from producers in the general area of applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million with no single project costing in excess of $1 million, except that a single offshore project shall not exceed 25 percent of the total budget amount.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party

in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-3772 Filed 3-17-71;8:49 am]

FEDERAL RESERVE SYSTEM

FARMERS SAVINGS AND TRUST CO.

Order Approving Merger of Banks Under Bank Merger Act

In the matter of the application of The Farmers Savings and Trust Co., Mansfield, Ohio, for approval of merger with the Lucas State Bank, Lucas, Ohio.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by The Farmers Savings and Trust Co., Mansfield, Ohio (Applicant), a member State bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and the Lucas State Bank, Lucas, Ohio (Bank), under the charter and the name of Applicant. As an incident to the merger, the sole office of Bank would become a branch of Applicant. Notice of the proposed merger, in the form approved by the Board, has been published as required by said Act.

Pursuant to the Act, the Board requested reports on the competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant (deposits $44 million), the third largest of seven banks located in Richmond County, holds about 17 percent of Richmond County commercial banking deposits. (All banking data are as of June 30, 1970.) Bank deposits $3 million) is the smallest of the seven institutions located in Richmond County. Applicant is a subsidiary of First Banc Group of Ohio, Inc., Columbus, Ohio, which is the fourth largest registered bank holding company in the State, controlling about 3 percent of deposits in the State of Ohio. Consummation of the proposed merger would not increase substantially the concentration of banking resources in any relevant area.

Applicant was instrumental in organizing Bank in 1928 and provided Bank with its initial management. Since that time Applicant and Bank have been closely associated, and each president of Bank has been either a president or senior officer of Applicant. There is no indication that this close relationship which exists between Applicant and Bank is likely to change in the foreseeable future regardless of the Board's action with respect to the present application. In view of the close relationship which has existed between Applicant and Bank, it may be reasonably concluded that present and potential competition would neither be foreclosed by approval of the application nor encouraged by its denial. It does not appear that competition with and between other banks in Richmond County would be affected in any significant way by consummation of the proposal.

The Board concludes that consummation of the proposed merger would not have an adverse effect on competition in any area. The financial and managerial resources and prospects of the merging banks and the resulting bank are satisfactory and consistent with approval of the application. Consummation of the merger would provide customers of Bank with certain additional banking services; the convenience and needs aspects of the proposal lend weight, therefore, to approval of the transaction. Based upon the foregoing, it is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the findings summarized above, that said application be and hereby is approved, provided that the merger so approved 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 Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] March 12, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-3728 Filed 3-17-71;8:46 am]

[1] Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns.

FIRST UNION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Union, Inc., which is a bank holding company located in St. Louis, Mo., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The First National Bank of Cape Girardeau, Cape Girardeau, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of St. Louis.

By order of the Board of Governors, March 11, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-3729 Filed 3-17-71;8:46 am]

MARSHALL & ILSLEY BANK STOCK CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Marshall Ilsely Bank Stock Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of State Bank of Mayville, Mayville, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Marshall & Ilsley Bank Stock Corp., Milwaukee, Wis. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of State Bank of Mayville, Mayville, Wis. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banking of the State of Wisconsin and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on January 5, 1971 (36 F.R. 129), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the third largest registered bank holding company and banking organization in Wisconsin, controls twelve banks with aggregate deposits of $558 million, representing 6.4 percent of the State's total deposits. (All banking data are as of June 30, 1970, adjusted to reflect bank holding company formations and acquisitions approved by the Board to date.) Upon acquisition of Bank ($14 million in deposits), Applicant would increase its share of Statewide deposits to 6.6 percent.

Bank has its principal office in Mayville and one branch in Knowles, a few miles north of Mayville. It is the only bank in Mayville and serves an area of approximately 215 square miles in northeast Dodge County. The closest banking office of any subsidiary of Applicant to Bank is a branch office of Ripon State Bank in Brandon, approximately 25 miles northwest of Mayville in Fond du Lac County. Under Wisconsin law, no present subsidiary of Applicant may establish a branch in Bank's service area. There appears to be no significant competition between Bank and Ripon State Bank or any other subsidiary of Applicant.

Bank is the largest of five banks competing in its service area, holding 43.5 percent of area deposits. The second and third largest banks in such area hold 20 percent and 17.4 percent of area deposits, respectively. All of the banks in Bank's service area primarily serve the towns in which they are located, and Bank is not regarded as dominating such area.

Based upon the record before it, the Board concludes that consummation of the proposed acquisition would not have significant adverse effects on competition in any relevant area. Considerations relating to the financial and managerial resources and future prospects, as they related to Applicant, its subsidiaries, and Bank are regarded as consistent with approval of the application. Bank's affiliation with Applicant appears to offer the prospect that expanded or improved banking services will be provided by, or made available through, Bank to the communities in Bank's service area—notably, with respect to loan, trust, and computer services—and that Bank's operations will be strengthened through special services provided by Applicant. Considerations relating to the convenience and needs of the communities in Bank's service area lend some support for approval of the application. 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.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved, provided that the acquisition so approved 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 Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] March 11, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-3730 Filed 3-17-71;8:46 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (71-3)]

VARIOUS DRAFT ENVIRONMENTAL IMPACT STATEMENTS

Public Notice Regarding Availability

Notice is hereby given of the public availability of draft Environmental Impact Statements with respect to the following programs and installations of the National Aeronautics and Space Administration:

(a) *The Apollo Program.* The objective of this program is to launch and land manned spacecraft on the lunar surface for the gathering of scientific material and data and the emplacement and operation of scientific equipment followed by the ultimate return of the spacecraft, crew, material, and data to earth. As the statement relates, the principal remaining activity under this program is the launch of three more lunar landing missions from the John F. Kennedy Space Center, NASA, Kennedy Space Center, Fla.

(b) *The Skylab Program.* The objectives of this program are to increase man's knowledge of the sun and its effect on man's earthly environment, to gather data for studies of earth resources related to oceanography, water management, agriculture, geology, air, and water pollution, and meteorology, and to further understand the effects of space flight on man's performance in space. As the statement discusses, the Skylab entails the launching of four rockets. All these launch activities will take place at the John F. Kennedy Space Center, NASA, Kennedy Space Center, Fla.

(c) *The NASA installations at (1) Ames Research Center, Moffett Field, Calif.; (2) Flight Research Center, Edwards, Calif.; (3) Goddard Space Flight Center, Greenbelt, Md.; (4) Wallops Station, Wallops Island, Va.; (5) Jet Propulsion Laboratory, Pasadena, including description of activities at Edwards AFB, and Table Mountain, Calif.; and (6) Marshall Space Flight Center, Huntsville, Ala.* Each of these separate Installation Statements describe the respective installation, its mission and operations.

Comments on the draft Environmental Statements and on matters set forth therein are solicited from, and may be submitted by, State and local agencies and members of the public. Such comments should be submitted to the Associate Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546. All comments must be received within 60 calendar days of the publication of this notice in the FEDERAL REGISTER in order to be considered in the preparation of any final environmental statement and in the ultimate program or activity reassessment.

Copies of the draft statements may be purchased (price $1 each) or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, CA 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brook-Park Road, Cleveland, Ohio 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Doane, Maisel, Brimmer, and Sherrill.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G–11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A–213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, Calif. 91103.

(l) Wallops Station, NASA (Library Building, Room E–105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 12th day of March 1971.

By direction of the Acting Administrator.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.71–3775 Filed 3–17–71;8:49 am]

OFFICE OF EMERGENCY PREPAREDNESS

FLORIDA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on March 15, 1971, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Florida, adversely affected by severe freezes beginning on or about January 20, 1971, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major disaster exists in the State of Florida. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91–606) I hereby appoint Mr. Robert C. Stevens to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act, and by § 1710.6, 32 CFR, for this disaster.

I do hereby determine the following area in the State of Florida to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 15, 1971:

The County of:
Dade.

Dated: March 15, 1971.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.71–3818 Filed 3–17–71;8:51 am]

SMALL BUSINESS ADMINISTRATION

CLEVELAND CAPITAL, INC.

Notice of License Surrender

Notice is hereby given that Cleveland Capital, Inc., 1000 Midwestern National Building, 75 Public Square, Cleveland, OH 44113, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107).

Cleveland Capital, Inc., was licensed as a small business investment company on May 2, 1962, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises derived therefrom are canceled and terminated.

A. H. SINGER,
Associate Administrator for Investment.

MARCH 5, 1971.

[FR Doc.71–3735 Filed 3–17–71;8:47 am]

DELTA CAPITAL, INC.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107) for transfer of control of Delta Capital, Inc., 550 Pontchartrain Drive, Slidell, LA. 70458, as amended (15 U.S.C. 661 et seq.) (Act), License No. 10/10–0086.

Delta Capital was incorporated November 29, 1961, and as of December 31, 1970, had paid-in capital and paid-in surplus from private sources of $1,250,000. It has 125,000 shares of issued and outstanding stock. Delta Associates, Inc., 320 Tryon Street, Charlotte, NC 28202, proposes to purchase all of the 125,000 shares presently held by the A.V.C. Corp., 1200 North Carolina Bank Building, Charlotte, NC 28202. Delta Associates is a venture capital management company incorporated in the State of North Carolina. The proposed transaction is subject to and contingent upon approval of SBA.

The proposed officers and directors of Delta Capital are as follows:

John Chadbourne Bolles, 800 North Carolina Bank Building, Charlotte, NC 28202, Chairman of the Board.

Alexander B. Wilkins, Jr., 1526 Scotland Avenue, Charlotte, NC 28207, Executive Vice President, Director.

John L. C. Laslie, Post Office Box 703, Slidell, LA 70458, Executive Vice President, Director.

Larry J. Dagenhart, 1601 Biltmore Drive, Charlotte, NC, Secretary, Director.

John W. Robinson, Jr., 117 Spring Lawn Road, Columbia, SC 29202, Director.

The above are officers and directors of Delta Associates, Inc., and as a group own 67.3 percent of Delta Associates common stock. Only two (Mr. Bolles 30.7 percent and Mr. Wilkins 15.3 percent) of the 12 Delta Associates shareholders own in excess of 10 percent of this concern's stock.

The operations of the Licensee will use the premises presently occupied by Delta Capital at 550 Pontchartrain Drive, Slidell, LA. Licensee will also have a branch office located at 320 South Tryon Street, Charlotte, NC 28202.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management and proposed new owner(s), and the possibility of successful operations of the company under their control and management (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transfer of control. Any such consideration should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published by the proposed transferee in a newspaper of general circulation in New Orleans, La., and Charlotte, N.C.

JAMES THOMAS PHELAN,
Acting Associate Administrator for Investment.

MARCH 11, 1971.

[FR Doc.71–3736 Filed 3–17–71;8:47 am]

FIRST CUMBERLAND INVESTMENTS, INC.

Notice of Issuance of Small Business Investment Company License

On December 29, 1970, a notice was published in the FEDERAL REGISTER (35 F.R. 251) stating that First Cumberland Investments Incorporated, 19 South Jefferson, Room 204, Cookeville, TN 38501, had filed an application with the Small Business Administration (SBA) pursuant to the regulations governing small business investment companies (13 CFR Part 107, 33 F.R. 326) for a license to operate as a small business investment company.

Interested parties were given to the close of business January 8, 1971, to submit written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 05/05-0097 to First Cumberland Investments Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

A. H. SINGER,
Associate Administrator for Investment.

MARCH 5, 1971.

[FR Doc.71-3737 Filed 3-17-71;8:47]

SEVENTEEN INVESTMENT CORP.

Notice of Surrender of License To Operate as Small Business Investment Corporation

Notice is hereby given that Seventeen Investment Corp., Belmont, Mass., incorporated under the laws of the Commonwealth of Massachusetts on February 10, 1964, has surrendered its license (Number 01/01-0063) issued by the Small Business Administration on April 10, 1964.

Under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Seventeen Investment Corp., is hereby accepted and it is no longer licensed to operate as a small business investment company.

A. H. SINGER,
Associate Administrator for Investment.

MARCH 10, 1971.

[FR Doc.71-3738 Filed 3-17-71;8:47 am]

SOUTHERN BUSINESS INVESTMENT CORP.

Notice of Surrender of License To Operate as Small Business Investment Company

Notice is hereby given that Southern Business Investment Corp. (Southern) has, pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107), surrendered its license to operate as a small business investment company (SBIC).

Southern was incorporated on October 6, 1960, under the laws of the State of Texas to operate solely as an SBIC under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), and it was issued license number 10-0031 by the Small Business Administration on November 22, 1960.

Under the authority vested by the Act, and the regulations promulgated thereunder, the surrender of the license of Southern is hereby accepted and, accordingly, it is no longer licensed to operate as an SBIC.

A. H. SINGER,
Associate Administrator for Investment.

MARCH 10, 1971.

[FR Doc.71-3739 Filed 3-17-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 20]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

MARCH 12, 1971.

The following applications are governed by Special Rule 1000.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2392 (Sub-No. 82) (Amendment), filed January 27, 1971, published in the FEDERAL REGISTER issue of February 19, 1971, amended, and republished in part as amended this issue. Applicant: WHEELER TRANSPORT SERVICE, INC., Post Office Box 14248, West Omaha Station, Omaha, NE 68114. Applicant's representatives: Keith D. Wheeler (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. NOTE: The purpose of this partial republication is (1) to include Leonard Jaskiewicz as applicant's representative and (2) to add Mount Clemens, Mich., as a destination point in part (a) of the application. The rest of the application remains the same.

No. MC 8989 (Sub-No. 215), filed February 12, 1971. Applicant: HOWARD SOBER, INC., 2400 West St. Joseph Street, Lansing, MI 48904. Applicant's representative: Albert F. Beasley, 311 Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles*, in initial movements, in truckaway service, from Lansing, Mich., to Memphis, Tenn., and points in Arizona, California, Colorado, Idaho, Iowa, Montana, Nevada, New Mexico, North Carolina, Oregon, South Carolina, Utah, Washington, and Wyoming, restricted to the handling of such automobiles in mixed loads with automobiles and chassis, automobile parts, automobile accessories, and mock-ups and cutaway models of automobiles shipped for purposes of display, testing, experiment or use in special events (authorized for handling in applicant's Sub-210 certificate). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 25798 (Sub-No. 219), filed February 18, 1971. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Aristo Kansas Meat Packers, Inc., at or near Holton, Kans., to points in Alabama, Florida, Georgia, North Carolina, and South Carolina. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 30844 (Sub-No. 343), filed February 17, 1971. Applicant: KROBLIN REFRIGERATED X PRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite and facilities used by H. J. Heinz Co., located in Franklin County, Pa., to Iowa City, Iowa. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 344), filed February 22, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite and/or cold storage facilities of Missouri Beef Packers, Inc., at or near Friona, Tex., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Amarillo, Tex.

No. MC 30884 (Sub-No. 15) (Correction), filed January 11, 1971, published in the FEDERAL REGISTER issues of February 4, and February 25, 1971, and republished as corrected, this issue. Applicant: JACK COOPER TRANSPORT CO., INC., 3501 Manchester Trafficway, Kansas City, MO 63011. Applicant's representative: Warren A. Goff, 2111 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers) in initial movements, in truckaway and driveaway service, from places of manufacture and assembly located in Kansas City, Mo., except those portions of the Kansas City, Mo. commercial zone, which lie within the State of Kansas, to points in Indiana, under contract with General Motors Corp. NOTE: Common control may be involved. The purpose of this republication is to show that applicant proposes service to Indiana, in lieu of Alabama and Wisconsin, which appeared in error in previous notice of filing which appeared in the FEDERAL REGISTER. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Detroit, Mich.

No. MC 31389 (Sub-No. 138), filed February 16, 1971. Applicant: McLEAN TRUCKING COMPANY, a corporation, 617 Waughtown Street, Post Office Box 213, Winston-Salem, NC 27102. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite (or sites) of Walker Manufacturing Co. Jonesboro, Ark., as an off-route point in connection with applicant's regular routes to and from Memphis, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Memphis, Tenn.

No. MC 35835 (Sub-No. 24), filed February 22, 1971. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue SE., Independence, IA 50064. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, 611 Church Street, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk, from Cedar Rapids, Clinton, Keokuk, and Muscatine, Iowa, to points in the United States (except Hawaii and Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, or Kansas City, Mo.

No. MC 41116 (Sub-No. 44), filed February 19, 1971. Applicant: FOGLEMAN TRUCK LINE, INC., Post Office Box 1504, 1724 West Mill Street, Crowley, LA 70526. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products, products produced by manufactures and converts of paper and paper products;* and (2) *materials and supplies* used in the manufacture and distribution of commodities described in (1) above (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between the sites of the plant or storage facilities of Boise Southern Co. in Beauregard Parish, La., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota, Nebraska, and Wisconsin, under contract with Boise Cascade Corp. NOTE: Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans or Baton Rouge, La.

No. MC 42405 (Sub-No. 29), filed February 16, 1971. Applicant: MISTLETOE EXPRESS SERVICE, doing business as MISTLETOE EXPRESS, Post Office Box 25125, 111 North Harrison, Oklahoma City, OK 73102. Applicant's representative: Max G. Morgan and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives), moving in express service, (1) between the following points in Arkansas: (a) Between Ft. Smith and Conway, Ark., over U.S. Highway 64 to Conway; (b) between Rogers and Harrison, Ark., over U.S. Highway 62 to Harrison, Ark.; (c) between Conway and Pine Bluff, Ark., over U.S. Highway 65 to Pine Bluff; (d) between Little Rock and El Dorado, Ark., over U.S. Highway 167 to El Dorado; (e) between Pine Bluff and Magnolia, Ark., over U.S. Highway 79 to Magnolia; (f) between DeQueen and Texarkana, Ark., over U.S. Highways 59 and 71 to Texarkana; (g) between Texarkana and Little Rock, Ark., over U.S. Highway 67 to Little Rock; (h) between Texarkana and El Dorado, Ark., over U.S. Highway 82 to El Dorado; (i) between Locksburg and Kirby, Ark., from Locksburg, over Arkansas Highway 24 to Nashville, thence over Arkansas Highway 27 to Kirby. (2) Between Broken Bow, Okla., and Little Rock, Ark., from Broken Bow, over U.S. Highway 70 to Little Rock; (3) between Heavener, Okla., and DeQueen, Ark.; from Heavener over U.S. Highways 59 and 270 to their junction with U.S. Highway 71 near Acorn; thence over U.S. Highways 59 and 71 to DeQueen;

(4) Between Durant, Okla., and Hugo, Okla., over U.S. Highway 70 to Hugo; and return over all the foregoing routes (1, 2, 3, and 4), serving all intermediate points; (5) between Wichita and Winfield, Kans., from Wichita over Kansas Highway 15 to its junction U.S. Highway 77; thence over U.S. Highway 77 to Winfield and return over the same route, serving no intermediate points; (6) between Texarkana, Ark.-Tex. and Idabel,

Okla., from Texarkana over U.S. Highway 82 to its junction U.S. Highway 259 near DeKalb, thence over U.S. Highway 259 to Idabel and return over the same route, as an alternate route for operating convenience only; (7) between the following points in Arkansas for operating convenience only: (a) Between Arkadelphia and Hot Springs, Ark., over Arkansas Highway 7 to Hot Springs; (b) between El Dorado and Camden, Ark., from El Dorado over Arkansas Highway 7 to Camden; (c) between junction Arkansas Highways 24 and 53 and Gurdon, Camden and Prescott; (1) from junction Arkansas Highways 24 and 53 over Arkansas Highway 53 to Gurdon; (2) from junction Arkansas Highways 24 and 53 over Arkansas Highway 24 to Camden; (3) from junction Arkansas Highways 24 and 53 over Arkansas Highway 24 to Prescott; (d) between Nashville and Prescott, Ark., over Arkansas Highway 24 to Prescott; (e) between Pine Bluff and Sheridan, Ark., over U.S. Highway 270 to Sheridan; (f) between Sheridan and Malvern, Ark., over U.S. Highway 270 to Malvern; (g) between Malvern and Hot Springs, Ark., over U.S. Highway 270 to Hot Springs; and (8) Serving the following Oklahoma points: (a) Serving Caddo, Okla., as an intermediate point on its presently certificated route Sub-No. 22;

(b) Between Davis and Ada: From Davis over Oklahoma Highway 7 to junction Oklahoma Highway 1 near Scullin, thence over Oklahoma Highway 1 to Ada, serving Sulphur and Roff; (c) between Altus and Junction U.S. Highway 283 with Oklahoma Highway 44; from Altus over U.S. Highway 283 to its junction Oklahoma Highway 44, serving Blair; (d) between Chandler and junction Oklahoma Highway 18 with Oklahoma Highway 33, from Chandler over Oklahoma Highway 18 to its junction with Oklahoma Highway 33, serving Agra; (e) between Talahini and Clayton and junction Oklahoma Highway with Oklahoma Highway 1, from Talihini over U.S. Highway 271 to Clayton, thence over Oklahoma Highway 2 to its junction Oklahoma Highway 1, serving Clayton; (f) between McAlester and Whitefield, Okla., from McAlester over Oklahoma Highway 31 to Kinta, thence over Oklahoma Highway 2 to Whitefield, serving Quinton and Kinta, and (g) between Junction U.S. Highway 60 with Oklahoma Highway 132 and junction Oklahoma Highway 45 with Oklahoma Highway 8, near Carmen, from junction U.S. Highway 60 with Oklahoma Highway 132 over Oklahoma Highway 132 to Carrier, thence over Oklahoma Highway 45 to its junction Oklahoma Highway 8 near Carmen, serving Carrier, Goltry, and Helena, and return over all the foregoing routes serving the named points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Smith, Ark., Tulsa, or Oklahoma City, Okla.

No. MC 52465 (Sub-No. 39), filed February 16, 1971. Applicant: RICE TRUCK LINES, a corporation, 1627 Third Street NW., Great Falls, MT 59401. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Montana to points in Idaho. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 59336 (Sub-No. 23), filed February 12, 1971. Applicant: U.S. TRUCK COMPANY, INC., 2290 24th Street, Detroit, MI 48216. Applicant's representative: Wilber M. Brucker, Jr., 3800 Penobscot Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the General Motors Truck & Coach Division of General Motors Corp. plantsite, Van Buren Township, Wayne County, Mich., as an off-route point in connection with applicant's regular route operation. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 59967 (Sub-No. 7), filed February 19, 1971. Applicant: LASHAM CARTAGE COMPANY, a corporation, 2331 South Wood Street, Chicago, IL 60608. Applicant's representative: Bernard C. Pestcoe, 708 City National Bank Building, 25 West Flagler Street, Miami, FL 33130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value and classes A and B explosives), between Port Everglades and Port Laudania, Fla., on the one hand, and, on the other, points in Dade, Broward, and Palm Beach Counties, Fla., restricted to traffic having a prior or subsequent movement by water. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. This application was accompanied with a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC60157 (Sub-No. 15), filed February 19, 1971. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 4641 Greenville Avenue, Dallas, TX 75206. Applicant's representative: J. G. Dail, Jr., 1111 E Street, NW., Washington DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antipollution systems equipment and parts; liquid cooling and vapor condensing systems equipment and parts; environmental control and protective systems equipment and parts; and equipment, materials and supplies* used in the construction or installation or antipollution and environmental control and protective systems and liquid cooling and vapor condensing systems (1) between points in Arkansas, Colorado, Illinois, Kansas, Louisiana, Montana, New Mexico, Oklahoma, Texas, Utah, and Wyoming; and (2) between points named in (1) above, on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Tulsa, Okla., or Houston or Dallas, Tex.

No. MC 63417 (Sub-No. 37), filed February 24, 1971. Applicant: BLUE RIDGE TRANSFER CO., INC., 1814 Hollins Road NE., Roanoke, VA 24001. Applicant's representative: Lester M. Bridgeman and Nancy Pyeatt, 420 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gabage disposal units*, from Kankakee, Ill., to points in Alabama, Delaware, Georgia, Kentucky, Maryland, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 64932 (Sub-No. 491), filed February 11, 1971. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, IL 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, from the plantsite of United States Steel Corp. at or near Haverhill (Scioto County), Ohio, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hamsphire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 76266 (Sub-No. 120) (Amendment), filed October 23, 1970, published in the FEDERAL REGISTER issue of February 4, 1971, and republished in part, as amended, this issue. Applicant: ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul,

MN 55114. Applicant's representative: Louis R. Cernjar (same address as applicant). The purpose of this partial republication is to delete the following words from the restriction: "moving from, to, or through Birmingham, Ala." The rest of the application remains as previously published.

No. MC 87476 (Sub-No. 7), filed February 19, 1971. Applicant: CARL SCHAEFER JR. TRUCK LINE, INC., 2600 Willowburn Avenue, Dayton, Madison Township, Montgomery County, OH 45427. Applicant's representative: W. J. Jordan, 2609 Fenwood Avenue, Terre Haute, IN 47803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, having a prior out of state movement and shipped and consigned to Carl Schaefer Jr. Truck Line, Inc., with specific delivery instructions, (a) between terminal of Carl Schaefer Jr. Truck Line, Inc., located at Dayton, Madison Township, Montgomery County, Ohio, on the one hand, and, on the other, points in Ohio (except between points within Cincinnati, Ohio, commercial zone) and (b) between terminal of Carl Schaefer Jr. Truck Line, Inc., located at Dayton, Madison Township, Montgomery County, Ohio, on the one hand, and, on the other, points in Adams, Allen, Bartholomew, Blackford, Clark, Dearborn, Decatur, Delaware, Fayette, Floyd, Franklin, Grant, Hamilton, Hancock, Henry, Huntington, Jay, Jefferson, Jennings, Johnson, Madison, Marion, Ohio, Randolph, Ripley, Rush, Scott, Shelby, Switzerland, Union, Wayne, and Wells Counties, Ind.; and points in Boone, Bourbon, Boyle, Bracken, Bullitt, Campbell, Carroll, Clark, Fayette, Fleming, Franklin, Galatin, Grant, Hardin, Harrison, Henry, Jefferson, Kenton, Lewis, Madison, Mason, Mercer, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Spencer, Trimble, Washington, and Woodford Counties, Ky.; and (2) *silica sand* in containers or in bulk in self unloading or dump vehicles, from Ottawa, Ill., on the one hand, and, on the other, points in Preble and Montgomery Counties, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Columbus, Ohio.

No. MC 102982 (Sub-No. 22), filed February 22, 1971. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Post Office Box 6064, Akron, OH 44312. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe and cast iron fittings, parts, valves, machinery, and fire hydrants*, from Florence, N.J., to points in Maine, New Hampshire, Vermont, and the District of Columbia, and *damaged or returned shipments of cast iron pipe, cast iron fittings, parts, valves, machinery, and fire hydrants*, from points in Maine, New Hampshire, Vermont, and the District of Columbia, to Florence, N.J., under contract with Griffin Pipe Products Co. NOTE: Applicant states no duplicate authority is being sought. It holds common carrier authority under MC 125533 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 104654 (Sub-No. 147), filed February 22, 1971. Applicant: COMMERCIAL TRANSPORT, INC., Post Office Box 469, Belleville, IL 62222. Applicant's representative: Edward G. Villalon, Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the site of the Phillips Pipe Line terminal at or near Hickman, Ky., to points in Missouri on and south of Interstate Highway 44 and U.S. Highway 66 and on and east of U.S. Highway 63. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo., or Washington, D.C.

No. MC 106398 (Sub-No. 527), filed February 19, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding systems, parts and accessories* for above, from Kankakee, Ill.; Elkhorn, Wis.; and Eureka, Ill., to points in the United States in and east of Minnesota, South Dakota, Kansas, Missouri, Arkansas, and Louisiana. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106398 (Sub-No. 528), filed February 22, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements and *buildings* in sections, mounted on wheeled undercarriages, from Stutsman County, N. Dak., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

No. MC 106400 (Sub-No. 82), filed February 22, 1971. Applicant: KAW TRANSPORT COMPANY, a corporation, Post Office Box 8525, Sugar Creek, MO 64054. Applicant's representatives: Harold D. Holwick (same address as applicant) and Robert L. Hawkins, Jr., 312 East Capitol Avenue, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin liquor*, in bulk, in tank vehicles, from Wolcott, Kans., to points in Arkansas, Illinois, Iowa, Missouri, Nebraska, Oklahoma, and South Dakota. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 106644 (Sub-No. 113), filed February 16, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, NW., Atlanta, GA 30301. Applicant's representative: K. Edward Wolcott, Post Office Box 916, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ingots, pigs, billets, blooms, and plates*, from Scottsboro, Ala., to points in the United States (except Alaska and Hawaii). NOTE: Applicant holds contract authority under MC 104724, therefore, common control and dual operations may be involved. Applicant states that the requested authority can be tacked with its existing size and weight authority in its lead certificate, Sub 30, Sub 41, and Sub 106, but has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at (1) Nashville, Tenn., (2) Memphis, Tenn., or (3) Birmingham, Ala.

No. MC 107295 (Sub-No. 484), filed February 22, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal tubing, wrought iron pipe and accessories*, from Chicago,

Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 485), filed February 25, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage meterings devices, animal waste spreader tanks, livestock feeding systems; parts and accessories* for same, from Kankakee and Eureka, Ill., and Elkhorn, Wis., to points in the United States (except Alaska, Arizona, California, Hawaii, Oregon, and Washington). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that should possible duplication be discovered later, it will be disclosed at the hearing. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 107515 (Sub-No. 737), filed February 11, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared food and bakery goods*, from Jackson, Tenn., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas, Virginia, Vermont, West Virginia, Wisconsin, and Ohio. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is sought and a duplicating restriction in any authority granted is acceptable. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107515 (Sub-No. 739), filed February 16, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts* as defined by the Commission, from Suffolk, Va., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi, traversing the State of Tennessee for operating convenience only. NOTE: Applicant states no duplicate authority is sought. It further states it can (1) tack the authority sought with its Sub 507 authority, to perform a through service to Wisconsin, Minnesota, Illinois, Tennessee, Michigan, Indiana, Kentucky, West Virginia, Pennsylvania, Ohio, Maryland, Delaware, New Jersey, New York, Rhode Island, Connecticut, New Hampshire, Vermont, Massachusetts, Maine, and the District of Columbia, (2) tack with its Sub 1 authority at Atlanta, Ga., to serve Louisiana, and (3) tack with its Sub 478 authority at Montgomery, Ala., and serve Texas, Oklahoma, and Arkansas. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108053 (Sub-No. 102), filed February 18, 1971. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., Post Office Box 129, Fremont, NE 68025. Applicant's representative: Carl L. Steine, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Kansas City, Kans., to points in Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Kans.

No. MC 108393 (Sub-No. 43), filed February 16, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, IL 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances, parts of electrical and gas appliances, and equipment, materials, and supplies* used in the manufacture, distribution, and repair of electrical and gas appliances, from Columbus, Ohio, to Pittsburgh, Pa., under continuing contract or contracts with Whirlpool Corp. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109028 (Sub-No. 10), filed February 10, 1971. Applicant: S & W TRANSFER, INC., 2505 North Mayfair Road, 1050 East Bay Street, Milwaukee, WI 53226. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, between Gibbon, Nebr., on the one hand, and, on the other, Chicago, Ill., and Milwaukee, Wis., under a continuing contract, or contracts, with Gibbon Packing Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 110012 (Sub-No. 24), filed February 24, 1971. Applicant: G. B. C., INC., 707 North Liberty Hill Road, Post Office Box 68, Morristown, TN 37814. Applicant's representative: Robert E. Joyner, 2111 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Hamblen County, Tenn., to points in Colorado, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Oregon, South Dakota, Utah, Vermont, Washington, and Wyoming. NOTE: Applicant states that the requested authority could be tacked to serve points in Carter, Greene, Hamblen, and Washington Counties, Tenn. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn., or Washington, D.C.

No. MC 110420 (Sub-No. 629), filed February 17, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: A. Bryant Torhorst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent carbon*, in bulk, from points in Michigan, Indiana, Illinois, and Ohio to points in Illinois and New York. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110420 (Sub-No. 630), filed February 19, 1971. Applicant: QUALITY CARRIERS, INC. Mail: Post Office Box 186, Pleasant Prairie, WI 53158. Office: 1–94 and Kenosha County Highway C, Bristol, WI. Applicant's representative: A. Bryant Torhorst, Post Office Box 186, Pleasant Prairie, WI 53158. Authority sought to operate as *a common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products, and blends and products thereof*, in bulk, from Cedar Rapids, Clinton, and Muscatine, Iowa, to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states it can tack to serve other origins, but tacking is not intended to serve the shippers. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant

requests it be held at Des Moines, or Milwaukee, Wis.

No. MC 110988 (Sub-No. 263), filed February 12, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Peterson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, from disabled motor vehicles, rail cars, and barges, between points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Mississippi, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 111375 (Sub-No. 43), filed February 15, 1971. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., 3567 East Barnard Avenue, Cudahy, WI 53110. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities used by Banner Beef Co., at or near Hospers, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. Restricted to traffic originating at the named origin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111401 (Sub-No. 320), filed February 22, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Bogalusa, La., to those ports of entry on the United States-Mexico boundary line located in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 111812 (Sub-No. 404) (Clarification), filed August 13, 1970, published in the FEDERAL REGISTER issue of September 3, 1970, and republished in part, as clarified, this issue. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: R. H. Jinks (same address as applicant). The sole purpose of this partial republication is to reflect that applicant intends to tack the requested authority with MC 111812 (Sub-No. 11), wherein applicant is authorized to transport general commodities (with usual exceptions) between Lakefield, Minn., and points within 25 miles thereof, on the one hand, and, on the other, all points in Minnesota, Iowa, and Sioux Falls, S. Dak. The rest of the application remains as previously published.

No. MC 112304 (Sub-No. 43), filed February 22, 1971. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum products; aluminum furniture; and aluminum ladders*, from Benton, Ky., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico; and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in the destination territory named in (1) above, to Benton, Ky. NOTE: Applicant states tacking possibilities exists with its Sub 1, however, it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Louisville, Ky.

No. MC 112520 (Sub-No. 234), filed February 16, 1971. Applicant: MCKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Muscogee County, Ga., to points in Alabama, Florida, South Carolina, North Carolina, Tennessee, Mississippi, Louisiana, and Arkansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 112520 (Sub-No. 235), filed February 16, 1971. Applicant: MCKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from points in Decatur County, Ga., to points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 112539 (Sub-No. 8), filed February 16, 1971. Applicant: PERCHAK TRUCKING, INC., Post Office Box 811, Hazleton, Pa. 18201. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, between points in Warren, Burlington, Hunterdon, Union, Bergen, Essex, Passaic, Middlesex, Monmouth, Somerset, Camden, Mercer, Hudson, Morris Counties, N.J.; Baltimore County, Frederick County, and Baltimore, Md.; Cortland, New York, Steuben, Chemung, Onondaga, Broome, Monroe, Genessee, Niagara, Erie, and Cattaraugus Counties, N.Y.; Cuyahoga and Erie Counties, Ohio; New Castle County, Del.; Bradford, Chester, Luzerne, Lackawanna, Schuylkill, Clinton (Except Avis, Pa.; and points within 1 mile thereof), Centre (except Bellefonte, Pa.; Lycoming, Dauphin, Northumberland, Philadelphia, Blair, Lehigh, Northampton, Columbia, Allegheny, Cambria, Lancaster, Lebanon, Tioga, Montgomery, Berks, Franklin, Montour, York, Carbon, Bucks, Susquehanna, Mifflin, and Union Counties, Pa. *Mill scale, iron slag or dust, in dump vehicles*, from Avis, Pa., to points in Carroll County, Md., and Greene County, N.Y. NOTE: Applicant states that it holds authority under MC 112539 Sub-No. 2, which duplicates in part authority sought herein. If the instant application is granted request to cancel that held will be made. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 113651 (Sub-No. 135), filed February 1971. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, IN 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from New Orleans, La., and Charleston, S.C., to Grand Rapids, Mich. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 113651 (Sub-No. 136), filed February 19, 1971. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, IN 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from points in Kansas to points in Illinois, Michigan, Indiana, Ohio, Pennsylvania, New York, New Jersey, Maine, Vermont, New

Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware, Maryland, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Mississippi, Louisiana, Florida, Georgia, Alabama, and the District of Columbia, restricted to traffic originating at the above-named points and destined to the above points. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 113651 (Sub-No. 137), filed February 22, 1971. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, IN 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the cold-storage facilities utilized by Wilson-Sinclair at Lafayette, Ind., to points in Connecticut, Delaware, Maine, Massachusets, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia, restricted to the transportation of traffic originating at the above cold-storage facilities and destined to the specified destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 113651 (Sub-No. 138), filed February 18, 1971. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, IN 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and the District of Columbia; and (2) *Such commodities* as are used by meat packers in the conduct of their businesses when destined to and for use by meat packers as described in section D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and the District of Columbia to the plantsite and storage facilities of the Illini Beef Packers, Inc., at or near Joslin, Ill. NOTE: Applicant states that joinder or tacking could be performed at Muncie, Ind., to practically all of the destination States involved in this application, however, joinder or tacking is not proposed. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 113908 (Sub-No. 213), filed February 15, 1971. Applicant: ERICKSON TRANSPORT CORPORATION, Box 3180, Glenstone Station, 215 East Dale Street, Springfield, MO 65804. Applicant's representative: Le Roy Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegars, fruit juice and fruit juice concentrates*, in bulk, in tank vehicles, from New York City, N.Y., and its commercial zone to points in Iowa, Illinois, Minnesota, Michigan, Tennessee, Wisconsin, Ohio, Pennsylvania, South Carolina, and Georgia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York City, N.Y.

No. MC 114194 (Sub-No. 162), filed February 22, 1971. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Gene Kreider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soy bean products and blends*, dry, in bulk, from Cedar Rapids, Iowa to points in the United States, including the District of Columbia (excluding Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Minneapolis, Minn.

No. MC 114323 (Sub-No. 17), filed February 19, 1971. Applicant: PAUL MARCKESANO AND SONS CO., INC., 36 Ferris Street, Brooklyn, NY 11231. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the storage site of Allentown Portland Cement Co. at Jersey City, N.J., to points in Connecticut and Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam Counties, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114457 (Sub-No. 106), filed February 22, 1971. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Detroit, Mount Clemens, and Traverse City, Mich., to points in Minnesota and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 114457 (Sub-No. 107), filed February 22, 1971. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, except dairy products and meat, from Bonner Springs, Kans., to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Wichita, Kans.

No. MC 114734 (Sub-No. 22), filed February 18, 1971. Applicant: D AND J TRANSFER CO., Sherburn, Minn. 56171. Applicant's representatives: Duane W. Acklie and Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68051. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities used by Banner Beef Co. at or near Hospers, Iowa, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin, restricted to traffic originating at the named origin under contract with Banner Beef Co. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 115113 (Sub-No. 21), filed February 22, 1971. Applicant IOWA PACKERS XPRESS, INC., Post Office Box 231, Spencer, IA 51301. Applicant's representative: Bill Husby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles* distributed by meat packinghouses (except hides and

commodities in bulk), as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and warehouse facilities utilized by Raskin Packing Co., Inc., located at/or near Mankato, Kans., and Sioux City, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restrictions: The service proposed herein is restricted to the transportation of traffic originating at the above-named origin points and destined to the above-named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 115162 (Sub-No. 217), filed February 17, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire brick, fire clay, and bonding mortar*, from Audrain and Callaway Counties, Mo., to points in Alabama, Florida, Georgia, Mississippi, Louisiana, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 115162 (Sub-No. 218), filed February 17, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Box Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit, pipe and tubing, and fittings*, therefore (except oilfield and pipeline commodities as defined by the Commission in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459), from points in Upshur County, Tex., to points in Alabama, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 116110 (Sub-No. 9) (Clarification), filed February 1, 1971, published in the FEDERAL REGISTER issue of February 25, 1971, and republished in part, and clarified, this issue. Applicant: P. C. WHITE TRUCK LINE, INC., Post Office Box 1488, Dothan, AL 36301. Applicant's representative: Drew L. Carraway, 618 Perpetual Building, Washington, DC 20004. The purpose of this partial republication is to reflect the route description to be served as follows: "Between Birmingham, Ala., and Montgomery, Ala., from Birmingham over U.S. Highway 31 to Montgomery, and return, serving no intermediate points." The rest of the application remains as previously published.

No. MC 116273 (Sub-No. 135), filed February 18, 1971. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions, liquid fertilizers, liquid fertilizer materials, and anhydrous ammonia*, in bulk, on tank vehicles, from the plantsite and facilities of the Royster Co. at or near Seneca, Ill., to points in Ohio, restricted to the transportation of shipments originating at such plantsite and facilities. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116457 (Sub-No. 9), filed February 18, 1971. Applicant: GENERAL TRANSPORTATION, INCORPORATED, Post Office Box K, Show Low, AZ 85901. Applicant's representative: Donald E. Fernaays, 4114 A North 20th Street, Phoenix, AZ 85016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing products*, from Dallas and Houston, Tex., to points in Arizona and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 116935 (Sub-No. 11) (Amendment), filed January 12, 1971, published in the FEDERAL REGISTER issue of February 11, 1971, amended and republished as amended, this issue. Applicant: COMMERCIAL FURNITURE DISTRIBUTORS, INC., 1000 Belleville Turnpike, Kearny, NJ 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, in containers, between the facilities of Commercial Furniture Distributors, Inc., Kearny, NJ, on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Orange, Rockland, and Putnam Counties, N.Y., and points in New York, N.Y., and New Jersey, restricted to shipments having prior movement via rail or motor carrier. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to correctly set forth the territorial description and broaden the scope of authority by adding Orange, Rockland, and Putnam Counington, D.C., or New York, N.Y.
ties. If a hearing is deemed necessary, applicant requests it be held at Wash-

No. MC 117165 (Sub-No. 35), filed February 16, 1971. Applicant: C. J. DAVIS, doing business as ST. LOUIS FREIGHT LINES, 1000 Michigan Avenue, St. Louis, MI 48880. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boards, building boards, wall fiberboard, insulating fiberboard, composition boards, panels, sheets and parts, materials and accessories* used in conjunction therewith from Tiffin, Ohio to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (2) *materials, equipment, and supplies* used in the manufacture of boards, building boards, wall fiberboard, insulating fiberboard, composition boards, panels, sheets and parts, materials and accessories used in conjunction therewith, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to Tiffin, Ohio; (3) *boards, building boards, wall fiberboard, insulating fiberboard and parts, materials and accessories* incidental thereto, from Alpens, Mich., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Oregon, Texas, Utah, Washington, and Wyoming; and (4) *materials and supplies* used in the manufacturing of boards, building boards, wall fiberboard and insulating fiberboard, from points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, Delaware, and the District of Columbia, to Alpena, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 117568 (Sub-No. 7), filed February 4, 1971. Applicant: KEMPT TRUCK LINES, INC., West 20th Street Road, Post Office Box 1047, Joplin, MO 64801. Applicant's representative: W. Russell Kempt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic tile, ceramic tile, metal mouldings and brick facing, and adhesives and fasteners* used in their installation, from Columbus, Ohio, to Indianapolis, Vincennes, and Evansville, Ind., Marion, Fairfield, Peoria, and East St. Louis, Ill., and points in Missouri, under contract with Miraplas Tile Co., Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 117883 (Sub-No. 149), filed February 17, 1971. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Wilson Certified Foods, Inc., located at Cherokee, Iowa, Omaha, Nebr., Kansas City, Mo., and Louisville, Ky., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above origins and destined to the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 117883 (Sub-No. 150), filed February 22, 1971. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Swift & Co. at Clinton, Glenwood, Marshalltown, Sioux City, and Des Moines, Iowa to Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the above origins and destined to the named destinations. NOTE: Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 117940 (Sub-No. 41) (Amendment), filed December 28, 1970, published in the FEDERAL REGISTER issue of January 28, 1971, under MC 114789 (Sub-No. 32), and republished as amended, this issue. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, NE 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, tile, flooring facing and materials and supplies* used in the installation, maintenance, and repair of the commodities described above, from points in Alabama, Georgia, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia, to points in Minnesota, Illinois, Indiana, Iowa, Kansas, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Applicant holds contract carrier authority under No. MC 114789 and subs, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to reflect that applicant now seeks common carrier authority in lieu of contract carrier authority, and accordingly, the application requires republication in the FEDERAL REGISTER of the scope of the authority sought. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 118263 (Sub-No. 44), filed February 15, 1971. Applicant: COLDWAY CARRIERS, INC., Post Office Box 38, Clarksville, IN 47131. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* (except cold pack or frozen) in insulated equipment, from Croswell and Edmore, Mich., to points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, New York, West Virginia, Missouri, Wisconsin, and Minnesota. NOTE: Applicant states that the requested authority can be tacked with its authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Louisville, Ky.

No. MC 118831 (Sub-No. 77), filed February 11, 1971. Applicant: CENTRAL TRANSPORT, INCORPORATED, Post Office Box 5044, High Point, NC 27262. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between Columbus, Ga., on the one hand, and, on the other, points in Alabama, Florida, Louisiana, Mississipi, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states possible joinder in South Carolina, and North Carolina. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 119422 (Sub-No. 47), filed February 16, 1971. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, IL 62204. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour and blends*, in bulk, from St. Louis, Mo., to points in Illinois, Indiana, Wisconsin, Michigan, Tennessee, Arkansas, Kentucky, Kansas, Iowa, Oklahoma, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119641 (Sub-No. 99), filed February 22, 1971. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Applicant's representative: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding systems; parts and accessories* for same, from Kankakee, and Eureka, Ill., and Elkhorn, Wis., to ports of entry on the International boundary line between the United States and Canada located at or near Detroit and Port Huron, Mich. NOTE: Applicant states that it does not propose to tack this authority with any presently existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119777 (Sub-No. 204), filed February 18, 1971. Applicant: LIGON SPECIALIZED HAULERS, INC., Post Office Drawer L., Madisonville, KY 42431. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, dry in bulk, from Danville, Ill., to points in Indiana, Ohio, and Michigan. NOTE: Applicant holds contract carrier under MC 126970 and sub, therefore common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 119988 (Sub-No. 39), filed February 12, 1971. Applicant: GREAT

WESTERN TRUCKING CO., INC., Highway 103 East, Box 1384, 811½ North Timberland Drive, Lufkin, TX 75902. Applicant's representative: Bennie W. Haskins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed advertising matter*, and (2) *newspaper supplements* otherwise exempt from economic regulation pursuant to section 203 (b)(7) of the Act when transported in mixed loads with printed advertising matter, from the plantsite of Colorgraphics, Inc., Oklahoma City, Okla., to points in the United States (except Alaska, Hawaii, and Oklahoma). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 123778 (Sub-No. 17) (Amendment), filed February 3, 1971, published in the FEDERAL REGISTER issue of March 4, 1971, and republished as amended this issue. Applicant: JOSEPH BAIO, doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, NJ 07095. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, from Newark Airport, Newark, N.J., LaGuardia and John F. Kennedy Airports, New York, N.Y., to points in Connecticut and New Jersey, and that part of New York on and south of New York Highway 5 between Syracuse and Schenectady and New York Highway 7 between Schenectady and the New York-Vermont State line, and on and east of U.S. Highway 11 between Syracuse, N.Y., and the New York-Pennsylvania State line, and points in Pennsylvania on and east of U.S. Highway 15, Wilmington, Del., Baltimore, Md., and the District of Columbia, under contract with U.S. News & World Report, Inc. NOTE: The purpose of this republication is to redescribe the scope of the authority sought. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124070 (Sub-No. 22) (Amendment), filed February 4, 1971, published in the FEDERAL REGISTER issue of March 4, 1971, and republished in part, as amended, this issue. Applicant: CHEMICAL HAULERS, INC., 5723 Kennedy Avenue, Hammond, IN 46323. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. The sole purpose of this partial republication is to reflect that applicant now desires to tack the requested authority at Chicago, Ill., with its existing authority under MC 124070 (Sub-No. 9). Applicant states that if the application is approved without a tacking restriction, it would then be able to provide service to all States in the Continental United States except North Carolina, South Carolina, Virginia, and points in that part of Tennessee on and east of U.S. Highway 27. The rest of the application remains as previously published.

No. MC 124078 (Sub-No. 475), filed February 16, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granulated slag*, in bulk, from Hammond, Ind., to Chattanooga, Tenn. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chattanooga or Nashville, Tenn.

No. MC 124078 (Sub-No. 476), filed February 16, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chrome ore, chrome products, soda ash, sodium bichromate, sodium chromate, and salt cake* (crude sodium sulphate), in bulk, from Wilmington, and points in New Hanover County, N.C., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Common control may be involved. Applicant states tacking possibilities exists, however, it does not intend to tack at present. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 124078 (Sub-No. 477), filed February 16, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean flour*, in bulk, from Danville, Ill., to points in Indiana, Ohio, and Michigan. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124078 (Sub-No. 478), filed February 18, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Nashville, Tenn., to points in Alabama, Georgia, Mississippi, Kentucky, Virginia, North Carolina, and South Carolina. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in a restricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 124111 (Sub-No. 29), filed February 17, 1971. Applicant: OHIO EASTERN EXPRESS, INC., Post Office Box 2297, 300 West Perkins Avenue, Sandusky, OH 44870. Applicant's representative: Earl J. Thomas, 5850 North High Street, Worthington, OH 43085. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Noncarbonated fruit drinks, chocolate drink, cider, and frozen yogurt*, in mechanically refrigerated equipment, between points in Erie County, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus or Toledo, Ohio.

No. MC 124174 (Sub-No. 83), filed February 22, 1971. Applicant: MOMSEN TRUCKING CO., a corporation, Highways 71 and 18 North, Spencer, Iowa 51301. Applicant's representatives: Marshall Becker, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106, and Karl E. Momsen, 6801 L Street, Omaha, NE 68117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, chromes*, and pieces thereof, and tannery products (except liquids in tank vehicles) (a) between Buford, Ga., on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Minnesota, Missouri (except Butler), Nebraska, North Dakota, South Dakota, Tennessee, and Wisconsin; and (b) between points in Illinois, Iowa, Minnesota, Nebraska, South Dakota, Wisconsin, St. Louis, Mo., and New Albany, Ind. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons in terested in the tacking possibilities are cautioned that failure to oppose the application may result

in an unrestricted grant of authority. Applicant presently holds authority from points in Missouri (except Butler), Illinois, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, via either the gateways of Muscatine, Iowa, or Chicago, and Waukegan, Ill. This application is in part to permit short route operations principally over newly completed Federal Interstate Highway Systems. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124174 (Sub-No. 84), filed February 22, 1971. Applicant: MOMSEN TRUCKING CO., a corporation, Highways 71 and 18 North, Spencer, Iowa 51301. Applicant's representatives: Marshall Becker, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106, and Karl E. Momsen, 6801 L Street, Omaha, NE 68117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal* and *charcoal briquets* in packages, from Meta, Mo., to points in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Iowa, Minnesota, Wisconsin, Michigan, Indiana, and Illinois. NOTE: Common control may be involved. Applicant states that tacking or joinder does not appear feasible, but may be possible. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 124199 (Sub-No. 5), filed February 10, 1971. Applicant: CHESAPEAKE BULK TERMINALS, INC., 2767 Wilkens Avenue, Baltimore, MD 21223. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flour, in bulk, including corn meal and/or corn flour*, from Baltimore, Md., and Washington, D.C., to points in Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia, (2) *Flour*, in bulk, from Frederick, Md., to points in Delaware, New Jersey, Pennsylvania, and West Virginia and (3) *Starch*, in bulk, from Baltimore, Md., to points in Pennsylvania, Delaware, Virginia, and New Jersey. No return for compensation unless specifically authorized. NOTE: No duplicating authority is sought. Applicant states that it holds authority in its Certificate MC 129199 (Sub-No. 1) to transport flour and prepared flour mixes, in bulk, in tank or hopper-type vehicles from Ellicott City, Md., to points in Connecticut and New York (with limited exceptions), among other States. Approval of the instant application would permit tacking at Ellicott City from named origins herein, to points in Connecticut and points in the State of New York authorized to be served. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124211 (Sub-No. 177), filed February 19, 1971. Applicant: HILT TRUCK LINE, INC., Post Office Drawer 988 D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Brown, Jackson, and Nemaha Counties, Kans., to points in the United States on and east of U.S. Highway 61. NOTE: Applicant states it intends to tack the requested authority with its existing authority in its Subs 30 and 104, respectively, at the origins named herein, to provide through service from Phelps City, Mo., and points in Saunders County, Mo., to the destination territory in the instant application. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 124679 (Sub-No. 41), filed February 22, 1971. Applicant: C. R. ENGLAND & SONS, INC., 228 West Fifth South, Salt Lake City, UT 84101. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products*, from St. Louis, Mo., to points in Hillsboro County, N.H. NOTE: Applicant holds contract authority under MC 128813, therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 125551 (Sub-No. 2), filed February 19, 1971. Applicant: K & W TRUCKING CO., INC., 6250 Rosewood Street, Anchorage, AK 99502. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Snowmobiles*, and (2) *self-propelled all terrain vehicles* (not designed for highway use), and *parts, supplies and accessories* of items described in (1) and (2), between points in Minnesota on the one hand, and, on the other, points in Alaska. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Anchorage, Alaska.

No. MC 125777 (Sub-No. 134), filed February 16, 1971. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 64603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pig iron*, in dump vehicles, from Buffalo and North Tonawanda, N.Y., to points in Ohio and Pennsylvania; (2) *fertilizer*, in dump vehicles, from the plantsite of Central Nitrogen, Inc., located at or near Terre Haute, Ind., to points in Kentucky; (3) *alloys, ores, silicon metals, scrap metals, scrap steel shapes, pig iron, coke, limestone, lime, and clay*, in dump vehicles, (a) between points in Niagara County, N.Y., on the one hand, and, on the other, points in the United States (except points in Alaska, Hawaii, Michigan, Illinois, Indiana, Kentucky, Ohio, West Virginia, Virginia, Pennsylvania, Delaware, New Jersey, Connecticut, Massachusetts, New Hampshire, Vermont, and Rhode Island); and (b) between points in Mobile County, Ala.; Charleston County, S.C.; and Marshall County, Ky., on the one hand, and, on the other, points in the United States (except points in Alaska and Hawaii); (4) *gravel, marble, granite, and stone*, in bulk, in dump vehicles, from Chicago, Ill., to points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, and Utah; and (5) *salt*, from Perkin, Ill., to points in Iowa and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 125996 (Sub-No. 17), filed February 22, 1971. Applicant: ROAD RUNNER TRUCKING, INC., Post Office Box 37491, Millard, Nebr. 68137. Applicant's representative: George Bacon (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except carcass and boxed meats), from the plantsite and storage facilities utilized by Blue Star Foods, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Pennsylvania, Ohio, Virginia, Kentucky, West Virginia, and Maryland and New York (except New York City and its commercial zone). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Kans.

No. MC 126216 (Sub-No. 5), filed February 10, 1971. Applicant: GLENN

PYLES, doing business as PYLES TRUCKING CO., Deer Creek, Ill. 61733. Applicant's representative: George S. Mullins, 4707 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, rubber, polyester, fiberglass, rayon, nylon or other materials, or combinations thereof*, with or without tubes, for automobiles, trucks, trailers, motorcycles, garden tractors, scooters, lawn mowers, or tractors, farm implements, farm wagons, road building equipment, or cranes or excavators, between Des Moines, Iowa, on the one hand, and, on the other, Bloomington, Ill., under contract with Saturn Tire and Rubber Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126899 (Sub-No. 42), filed February 16, 1971. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Post Office Box 3051, Paducah, KY 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material*, and *empty malt beverage containers* on return, from Milwaukee, Wis., and Peoria, Ill., to Columbus, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Cincinnati, Ohio.

No. MC 126899 (Sub-No. 43), filed February 16, 1971. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Paducah, KY 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material*, from Milwaukee, Wis., and Peoria, Ill., to Ironton and Portsmouth, Ohio, and points in Brown County, Ohio, and *empty malt beverage containers*, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 127047 (Sub-No. 11), filed February 16, 1971. Applicant: ED RACETTE & SON, INC., 5409 North Broadway, Wichita, KS 67214. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Axles, wheels, axle parts, hub and drum assemblies, wheel rims and related parts and accessories*, between Newton, Kans., on the one hand, and, on the other, points in Wisconsin and (B) *Cabinets, countertops, wall panels, bi-fold doors and fixtures and parts thereof*, from Gridley, Kans., to points in North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Colorado, Illinois, Missouri, Oklahoma, Texas, Arkansas, Louisiana, Wisconsin, Tennessee, Kentucky, Mississippi, Ohio, Michigan, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 127064 (Sub-No. 4), filed February 19, 1971. Applicant: E. J. PETER TRUCKING INC., Route No. 2, Athens, WI 54411. Applicant's representative: Eugene J. Peter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, from Savage, Minn., to points in Wisconsin (except Marathon, Clark, Taylor, Wood, and Langlade Counties). NOTE: Applicant states that the purpose of this application is to expand its present authority. Applicant further states that the requested authority will be tacked with presently held authority under MC 127064, which applicant is authorized to serve Clark, Taylor, Wood, Marathon, and Langlade Counties, Wis. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Minneapolis, Minn.

No. MC 127099 (Sub-No. 12), filed February 10, 1971. Applicant: ROBERT NEFF & SONS, INC., 132 Shawnee Avenue, Post Office Box 2015, Zanesville, OH 43701. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated cardboard*, from the plantsite the Greif Bros. Corp., at Zanesville, Ohio, to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, and those in that part of Pennsylvania on and east of U.S. Highway 219, under contract with Greif Bros. Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 127539 (Sub-No. 19), filed February 8, 1971. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, WA 98421. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Seattle, Wash., to points in Oregon, Washington, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 124593, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 128272 (Sub-No. 2), filed January 25, 1971. Applicant: RIVERSIDE MOTOR LINES, INC., Post Office Box 1601, Augusta, GA 30900. Applicant's representative: Henry P. Willimon, Post Office Box 1075, Greenville, SC 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated building panels*, brick, tile, and concrete block (faced or unfaced) between points in Richmond County, Ga., and points east of the Mississippi River, excluding Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and Missouri; and (2) *cement and mortar mix*, between points in Richmond County, Ga., and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Columbia, S.C.

No. MC 129442 (Sub-No. 3), filed February 12, 1971. Applicant: OKLAHOMA ARMORED CAR, INC., 1005 Southwest Second Street, Oklahoma City, OK 73125. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Banking checks, deposit slips, accounting reports, statements, cash letters and data processing reports*, between Tulsa, Okla., and points in Jasper, Newton, McDonald, Barton, Lawrence, and Greene Counties, Mo., and Cherokee, Labette, Crawford, Montgomery, Neosho, and Bourbon Counties, Kans., under contract with banks and banking institutions. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 129645 (Sub-No. 34), filed February 18, 1971. Applicant: BASIL J. SMEESTER and JOSEPH G. SMEESTER, a partnership doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI 49801. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fibreboard, wood fibreboard faced and finished with decorative and protective materials* (except commodities in bulk), *and materials, accessories and supplies* used in the installation thereof, from the plant and warehouse sites of Evans Products Co., at or near Phillips, Wis., to points in Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its permit No. MC 127093 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 133333 (Sub-No. 4), filed February 16, 1971. Applicant: JACK A

HART doing business as PARTS LOCATOR SERVICE, 5501 Northwest Walnut Street, Vancouver, WA 98663. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobile and truck parts*, between points in Idaho, on the one hand, and, on the other, points in Oregon and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 133357 (Sub-No. 4), filed February 10, 1971. Applicant: THOMAS VINCENT MILLER, 9024 Branch Avenue, Clinton, MD 20735. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, equipment mats, and wood chips*, from points in Charles County, Md., to points in Pennsylvania, New Jersey, New York, Ohio, Delaware, Maryland, Virginia, Connecticut Massachusetts, West Virginia, Michigan, and the District of Columbia, NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 133523 (Sub-No. 4), filed February 12, 1971. Applicant: EUGENE STONE TRUCKING, INC., 5735 East 139th Street, Cleveland, OH 44125. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215: Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, in shipper-owned trailers) between points in Ohio, Pennsylvania, and Massachusetts, on the one hand, and, on the other, points in Delaware, Florida, Georgia Maryland, North Carolina, South Carolina, Virginia, West Virginia, and the District of Columbia, under contract with the Standard Oil Co. of Ohio and its subsidiaries. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 133524 (Sub-No. 2), filed February 19, 1971. Applicant: PIER SERVICE TRUCKING CORP., 17 West Ninth Street, Brooklyn, NY 11231. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in, or sold by electronics and radio stores and mail order houses, between Hauppauge and Syosset, N.Y., on the one hand, and, on the other, points in the United States (except those in Alaska and Hawaii), under contract with Lafayette Radio Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133545 (Sub-No. 3), filed February 16, 1971. Applicant: DAVID LEMONS, doing business as LEMONS HOUSE MOVING, 1250 Houston Road, Idaho Falls, ID 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New prefrabricated buildings*, set up or in sections other than knocked down flat, and not including mobile houses or buildings designed for transportation in tow-away service, from points in Idaho south of the Salmon River to points in Arizona and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 133686 (Sub-No. 6), filed February 17, 1971. Applicant: TOM SAWYER, an individual, Box 3, Kingston, ID 83839. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, from Bertha and Fergus Falls, Minn., to Spokane, and Seattle, Wash., and Portland, Oreg., under contract with North Star Dairy. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 133788 (Sub-No. 2) (Correction) filed February 2, 1971, published in the FEDERAL REGISTER issue of February 25, 1971, and republished as corrected, this issue. Applicant: E Z MESSENGER SERVICE, INC., 98–17 Horace Harding Expressway, Rego Park, NY 11368. Applicant's representative: William J. Hanlon, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile accessories and parts*, between Mahwah, N.J., on the one hand, and, on the other, New York, N.Y., and points in Bergen, Essex, and Hudson Counties, N.J., under contract with Ford Motor Co. NOTE: The purpose of this republication is to show the base point as "Mahwah, N.J." in lieu of "Rahway, N.J.", incorrectly shown in previous publication.

No. MC 133967 (Sub-No. 6), filed February 23, 1971. Applicant: JOHN R. McCORMICK, doing business as McCORMICK TRUCKING, Route 1, Catawba, WI 54515. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products, reinforced plastics and reinforced plastic products*, from Ladysmith, Wis., to points in Ohio, Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin; and (2) *materials, equipment and supplies* (except in bulk), from points in Illinois, Ohio, Indiana, Iowa, Michigan, Minnesota, and Wisconsin to Ladysmith, Wis., under contract with Fiber-Strong, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison or Eau Claire, Wis.

No. MC 134349 (Sub-No. 2), filed February 19, 1971. Applicant: B. L. T. CORPORATION, 189 Bridge Street, Brooklyn, NY 11201. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by department stores*, between the shipping facilities and sources of supply of My Shops, Inc., at New York, N.Y., on the one hand, and, on the other, points in Nebraska, Iowa, Minnesota, Illinois, Michigan, Indiana, and Tennessee, under contract with My Shops, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134404 (Sub-No. 1), filed February 22, 1971. Applicant: AMERICAN FREIGHTWAYS, INC., 2013 Rose Lane, Broomall, PA 19008. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic bathtubs and plastic bath fixtures*, from the plantsite of American Standard at Piscataway, N.J., to points in Minnesota, Iowa, Missouri, Arkansas, Texas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Illinois, Indiana, Wisconsin, and Michigan and (2) *materials and supplies* (other than bulk) used in the manufacture, sale and distribution of the aforementioned commodities on return. Restrictions: The contract carrier service proposed is to be performed under contract with American Standard. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134405 (Sub-No. 3), filed February 8, 1971. Applicant: BACON TRANSPORT COMPANY, a corporation, Post Office Box 1134, Ardmore, OK 73401. Applicant's representative: Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum asphalt*, in bulk, from Artesia, N. Mex., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 134789 (Sub-No. 1), filed February 11, 1971. Applicant: WILBER C. SHAFFER and TYRONE FROEMKE, a partnership, doing business as TAB TRANSPORTATION COMPANY, 1631 Perrino Place, Los Angeles, CA 90023. Applicant's representative: David P. Christianson, 825 City National Bank

Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gratings, footwalks, scaffolds, aluminum lineal shapes, stainless steel sink frames, tables, hardware, ladders, plumbing, plumbers fittings, plastic articles, aluminum boats, floating dock and houses or buildings for the account of R. D. Werner Co.*, between points within the counties of Ventura, Santa Barbara, Kern, San Diego, Orange, San Bernardino, Riverside and Los Angeles, Calif., under contract with R. D. Werner, Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134826 (Sub-No. 1), filed January 22, 1971. Applicant: DAVID G. GWYTHER and DONALD W. GWYTHER, a partnership, doing business as WHOLE EARTH TRUCK STORE, 651 East 13th Avenue, Eugene, OR 97401. Applicant's representative: Donald Gwyther (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines, paper, and paper products*, from San Francisco, and Berkeley, Calif., to Eugene, Salem, and Portland, Oreg., Longview, Olympia, Tacoma, Seattle, and Everett, Wash., and ports of entry on the international boundary line between the United States and Canada located in Washington, under contract with Rolling Stone Magazine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Eugene or Portland, Oreg., or San Francisco, Calif.

No. MC 134922 (Sub-No. 6), filed February 24, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representatives: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603; and George Harris, c/o B. J. McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Huron, S. Dak., to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134941 (Sub-No. 2), filed February, 22, 1971. Applicant: DUBUC TANK LINES, LTD., 11650 Metropolitan Boulevard East, Montreal, PQ Canada. Applicant's representative: Edwin W. Free, Jr., 25 Keith Avenue, Barre, VT 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt*, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada in New York, Vermont, New Hampshire, and Maine to points in Maine, Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier or Burlington, Vt.

No. MC 134997 (Sub-No. 1), filed February 8, 1971. Applicant: CASTLE TRUCKING CO., Division of Castle Sporting Goods, Inc., 498 Nepperhan Avenue, Yonkers, NY 10701. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, NY 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Luggage, travelling bags, suitcases, and materials, equipment and supplies* used in manufacturing of same, between supporting shipper's plants located at Berkley Springs, W. Va., Yonkers, N.Y., and Clarksburg, Mass., under contract with Castle Sporting Goods, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135042 (Sub-No. 1), filed February 12, 1971. Applicant: JIMMY C. TURNER, doing business as JIM TURNER TRACTOR & EQUIPMENT MOVING, 112 West Pepper Place, Mesa, AZ 85401. Applicant's representative: Paul D. Levie, 2333 North Central Avenue, Phoenix, AZ 85004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Specialized cooling equipment* used in cooling lettuce and produce, between points in Arizona, California, New Mexico, and Colorado, under contract with Maricopa Cooling, Inc., an Arizona corporation. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 135174, filed December 9, 1970. Applicant: CHRISTIAN THOMPSON, doing business as PIMA COACH & TRUCK, 3801 Runway Drive, Tucson, AZ. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, in truckaway service, by use of wrecker equipment only, between points in Arizona, California, New Mexico, Colorado, Nevada, Utah, and Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tucson or Phoenix, Ariz.

No. MC 135208 (Sub-No. 2), filed February 16, 1971. Applicant: GEORGE L. BIGELOW, Post Office Box 421, Delavan, WI 53115. Applicant's representative: Nancy J. Johnson, 111 South Fairchild Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Laminated wood truck trailer components and laminated wood kitchen products*, from the town of Crystal Falls, Mich., and Fort Atkinson, Wis., to points in the United States (except Alaska and Hawaii), and *materials, supplies and rejected shipments*, on return; and (2) *laminated wood truck trailer components, laminated wood kitchen products, and material, equipment and supplies*, between the plantsites of Laminated Industries, Inc., located in the town of Crystal Falls, Mich., and Wild Rose and Fort Atkinson, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority under its permit No. MC 124296, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 135227 (Correction), filed December 29, 1970, published in the FEDERAL REGISTER issue of February 25, 1971, corrected and republished in part, as corrected, this issue. Applicant: CHARLES CLARK, doing business as SPECIAL DISPATCH, 240 West Ohio, Post Office Box 460, Indianapolis, IN 46206. Applicant's representative: Keith F. Henley, 88 East Broad Street, Columbus, OH 43215. NOTE: The purpose of this partial republication is to reflect the proposed operation as that of a *contract carrier*, in lieu of common carrier, shown erroneously in previous publication. The rest of the application remains the same.

No. MC 135251 (Sub-No. 2), filed February 15, 1971. Applicant: WHITE CLOVER DAIRY COMPANY, INC., Route 3, Kaukauna, WI 54130. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail food businesses, between the plants and warehouses of Kaukauna Dairy Co., Inc., located at Kaukauna, Wis., and in the town of Vinland, Winnebago County, Wis., and of White Clover Dairy Co., Inc., located in the village of Hilbert, Calumet County, Wis., and in the town of Holland, Brown County, Wis., all on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with Kaukauna Dairy Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 135334, filed February 9, 1971. Applicant: LILLIAN KOPPEL, doing business as USA DRIVEAWAY, 32 North State Street, Chicago, IL 60602. Applicant's representative: Jerome Lerner, 77 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles and food vending trucks* (¾-ton capacity or less) in secondary movements, in single driveaway service between the greater metropolitan area of Chicago, Ill., on the one hand, and, on the other, points in the United States (excluding Hawaii), restricted against

the transportation of traffic (1) for or on behalf of manufacturer of automobiles, or (2) moving on U.S. Government bills of lading, to and between points in the United States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135335, filed February 9, 1971. Applicant: THE KINMAN WRECKER SERVICE, INC., 840 East Sumner Avenue, Indianapolis, IN 46227. Applicant's representative: Harry J. Harman, 1 Indiana Square, Suite 2425, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used motor vehicles*, in secondary movements, by the truckaway method, to be used as replacements for wrecked or disabled motor vehicles, and wrecked, disabled, and repossessed motor vehicles including trailers by wrecker equipment only, and (2) *Motor vehicle parts, accessories, supplies, and materials*, moving in wrecker equipment for use in connection with the requiring and reconditioning of damaged, disabled, or wrecked motor vehicles, between points in Indiana on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis or South Bend, Ind.

No. MC 135337, filed February 8, 1971. Applicant: PENINSULAR INTERMODAL TRUCKING COMPANY, a corporation, 704 Southeast 24th Street, Fort Lauderdale, FL 33316. Applicant's representative: William P. Simmons, Jr., 1000 First National Bank Building, Miami, FL 33131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except high explosives, those of unusual value and those requiring special equipment) which are loaded in containers, or palletized, or otherwise packaged for bulk shipment by water, including loaded trailers and return of a prior or subsequent movement by water, between ports located in Dade, Broward, and Palm Beach Counties, Fla., on the one hand, and all points in said counties on the other. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Lauderdale, Fla., or Miami, Fla.

No. MC 135341 (Sub-No. 1), filed February 16, 1971. Applicant: MAGOG EXPRESS, INC., Route 2, Post Office Box 265, Magog, Stanstead County, PQ Canada. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Magazines and periodicals*, from ports of entry on the international boundary line between the United States and Canada located at or near Derby Line and Highgate Springs, Vt., to Springfield, Mass., and Bridgeport, Conn., and (2) *pallets*, from the above-described destination points, to the above-described origin points, restricted to the transportation of shipments originating at or destined to points in Stanstead County, PQ Canada. Restriction: Said operations are limited to a transportation service to be performed under a continuing contract, or contracts with Imprimerie Montreal Offset Printing, Inc., Montreal, PQ Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Boston, Mass.

No. MC 135343, filed February 11, 1971. Applicant: VAN De HOGAN CARTAGE LIMITED, Route 4, Chatham, ON, Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stone, tile*, and *brick*, restricted to transportation on trailers equipped with self-unloading devices; and (2) *limestone*, from points in Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania, to those ports of entry on the international boundary line between the United States and Canada located in Michigan and New York. NOTE: Applicant holds contract authority under MC 133318, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 135347, filed February 22, 1971. Applicant: CHARLES DEAN FORRET, doing business as FORRET TRUCKING, 1800 East 18th Street, Des Moines, IA 50316. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from the plantsites, warehouse, and storage facilities of Needham Packing Co., Inc., at Omaha, Nebr., Sioux City, Iowa, and Fargo N. Dak. to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 135356, filed February 16, 1971. Applicant: LOUIS DIAMOND, 19 Burnage Lane, Babylon, NY 11702. Applicant's representative: Robert R. Bolton, 107 Cooper Street, Babylon, NY 11702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Racing pigeons*, from Babylon, West Babylon, Lindenhurst, Islip, Brentwood, N.Y., to Fogelsville Lebanon, Allenport, Cresson, Wilkinsburg, Blain, Quakertown, Kleinfeltersville, Carlisle, Fort Littleton, Somerset, Pittsburgh, Pa.; Tappan Lake, Plain City, Flushing, Circleville, Scipio, Ohio; and Whitehouse, Somerville, New Brunswick, and Princeton, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

MOTOR CARRIERS OF PASSENGERS

No. MC 668 (Sub-No. 94), filed February 22, 1971. Applicant: INTER-CITY TRANSPORTATION CO., INC., 419 Anderson Avenue, Fairview, NJ. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) between Fair Lawn, N.J., and New York, N.Y., from junction Fair Lawn Avenue and River Road in Fair Lawn, N.J., over Fair Lawn Avenue to junction Plaza Road in Fair Lawn, N.J. (also from junction Fair Lawn Avenue and Saddle River Road in Fair Lawn, N.J., over Fair Lawn Avenue to junction Plaza Road in Fair Lawn, N.J.), thence over Plaza Road to junction Broadway also known as New Jersey Highway 4, thence over New Jersey Highway 4 to junction Paramus Road in Paramus, N.J., thence over Paramus Road to junction Passaic Street in Rochelle Park, N.J., thence over Passaic Street to junction New Jersey Highway 17 in Rochelle Park, N.J. (also over New Jersey Highway 4 from junction of Plaza Road in Fair Lawn, N.J., to junction New Jersey Highway 17 in Paramus, N.J., thence over New Jersey Highway 17 to junction Passaic Street in Rochelle Park, N.J.), thence over New Jersey Highway 17 to junction Paterson Plank Road in East Rutherford, N.J., thence over Paterson Plank Road to junction New Jersey Highway 20 in East Rutherford, N.J., thence over New Jersey Highway 20 to junction New Jersey Highway 3 in East Rutherford, N.J. (also over New Jersey Highway 17 from junction Paterson Plank Road in East Rutherford, N.J., over New Jersey Highway 17 to junction New Jersey Highway 3 in Rutherford, N.J., thence over New Jersey Highway 3 to junction New Jersey Highway 20 in East Rutherford, N.J.), thence over New Jersey Highway 3 including the Secaucus, N.J., bypass to junction Interstate Highway 495 in North Bergen, N.J., thence over Interstate Highway 495 and through the Lincoln Tunnel to New York, N.Y., serving no intermediate points, and return over the same routes; (2) between Paramus, N.J., and Ridgewood, N.J., from junction Paramus Road and Grove Street in Paramus, N.J., over Grove Street to junction South Pleasant Avenue in Ridgewood, N.J., thence over South Pleasant Avenue to junction East Ridgewood Avenue in Ridgewood, N.J., and return over the same routes, serving all intermediate points; and (3) between Teaneck and Teaneck, N.J., from junction Fort Lee Road and Teaneck Road in Teaneck, N.J., thence via Teaneck Road to junction DeGraw Avenue, thence via DeGraw Avenue to junction Fort Lee Road, and return over the same route, serving all intermediate points. NOTE: Applicant proposes to join routes 1, 2, and 3 to its existing authorized routes in New Jersey and provide

service between points on the proposed routes as well as authorized points on its existing routes and New York, N.Y. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 114755 (Sub-No. 1), filed February 22, 1971. Applicant: NEWBURGH BEACON BUS CORP., Windsor Highway, Route 32, Box 2628, Newburgh, NY 12550. Applicant's representatives: W. C. Mitchell and S. S. Eisen, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Dutchess, Orange, Putnam, and Ulster Counties, N.Y., and extending to points in the United States (excepting Hawaii but including Alaska). NOTE: If a hearing is deemed necessary, applicant requests it be held at Newburgh, N.Y.

No. MC 135331, filed February 8, 1971. Applicant: INDEPENDENT BUS GARAGE CO., INC., doing business as INDEPENDENT BUS LINES, 799 18th Avenue, Irvington, NJ 07111. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicles with passengers, between Green Village, Chatham Township, N.J., and New York, N.Y., (1) from Green Village, Chatham Township, over Green Village Road, Shunpike Road, and Green Village Road to Madison, N.J., then over city streets to Ridgedale Avenue in Madison, N.J., thence over Ridgedale Avenue to Columbia Turnpike in Florham Park to South Orange Avenue, then over South Orange Avenue through Livingston, N.J., South Orange, N.J., and Newark, N.J., to Springfield Avenue then over Springfield Avenue, Market Street (also Market Street, Raymond Plaza West, Penn Central Terminal bus lanes, and Raymond Plaza East to Market Street), Ferry Street, and Raymond Boulevard to the entrance ramp of the New Jersey Turnpike, then over the New Jersey Turnpike ramp and the Turnpike to the Lincoln Tunnel Interchange No. 16 in Secaucus, N.J., then over New Jersey Turnpike exit road to New Jersey Highway 3 and Interstate Highway 495, then over New Jersey Highway 3 and Interstate Highway 495 to the Lincoln Tunnel, and then through the Lincoln Tunnel to the Port Authority Bus Terminal at 8th Avenue and 41st Street, New York, N.Y., and return over the same highways, except in Newark, N.J., where Raymond Boulevard, Raymond Plaza East will be used to Market Street (also Raymond Plaza West and Penn Central bus lanes), and from Market Street over the above-described routes to the point or place of beginning, serving all intermediate points between Green Village, Chatham Township, N.J., and the junction of High Street and Springfield Avenue in Newark, N.J., including Green Village and the junction of High Street; and (2) from Green Village, Chatham Township, over the routes described above to junction South Orange Avenue, then over South Orange Avenue, Oraton Parkway and 14th Avenue to the junction of Garden State Parkway Interchange No. 144A, Newark, N.J., then over the Garden State Parkway to junction New Jersey Highway 3, then over New Jersey Highway 3 and Interstate Highway 495 to the Lincoln Tunnel, and then through the Lincoln Tunnel to the Port Authority Bus Terminal at 8th Avenue and 41st Street, New York, N.Y., and return over the same routes except that on return the Garden State Parkway Interchange No. 144, Irvington, N.J., will be used and Myrtle Avenue, Irvington, South Devine Street, 14th Avenue and East Speedway to junction South Orange Avenue, Newark, N.J., serving all intermediate points between Green Village, Chatham Township and Garden State Parkway Interchange No. 144, Myrtle Avenue, Irvington, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

APPLICATION OF FREIGHT FORWARDER

No. FF-400 (IML SEATRANSIT, LTD. Freight Forwarder Application), filed March 4, 1971. Applicant: IML SEATRANSIT, LTD., Post Office Box 2277, Salt Lake City, UT 84110. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, CA 94104. Authority sought under section 410, part IV of the Interstate Commerce Act, for a permit authorizing it to institute operations as a freight forwarder in interstate and foreign commerce, in the forwarding of *general commodities*, between all points in the Continental United States (except Alaska) on the one hand, and, on the other, Hawaii.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 71-3688 Filed 3-17-71; 8:45 am]

[Notice 664]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 15, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72658. By order of March 3, 1971, the Motor Carrier Board approved the transfer to Lindsey's Express, Inc., Ewansville, Mount Holly, N.J. 08060, of the operating rights in Certificates Nos. MC-107284 and MC-107284 (Sub-No. 1) issued June 20, 1955, and May 1, 1962, respectively, to Everett S. Lindsey, doing business as Lindsey's Express, Ewansville, Mount Holly, N.J. 08060, authorizing the transportation of general commodities, with usual exceptions, between Philadelphia, Pa., on the one hand, and, on the other, points in Burlington, Camden, Atlantic, Gloucester, Salem, and Cumberland Counties, N.J.; such commodities as are dealt in and sold by wholesale and retail drug houses, between Upper Dublin Township, Montgomery County, Pa., and points in Burlington and Camden Counties, N.J., except Camden, N.J.

No. MC-FC-72696. By order of March 2, 1971, the Motor Carrier Board approved the transfer to Penguin Trucking Co., Inc., Los Angeles, Calif., of the operating rights in Certificate No. MC-65115 issued August 27, 1970, to J & B Trucking Co., Inc., Los Angeles (Vernon), Calif., authorizing the transportation of agricultural commodities from points in Los Angeles and Orange Counties, Calif., to Los Angeles Harbor, Calif.; commercial fertilizer from Los Angeles Harbor, Calif., to points in Los Angeles and Riverside Counties, Calif.; general commodities, with exceptions, between Los Angeles, Calif., and Los Angeles Harbor, Calif.; and bananas from points in the Los Angeles, Calif., harbor commercial zone, as defined by the Commission, to Colton and San Diego, Calif. Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Glendale Federal Building, Beverly Hills, CA 90212, attorney for applicants.

No. MC-FC-72703. By order of March 2, 1971, the Motor Carrier Board approved the transfer to Pettis Moving Co., Inc., Binghamton, N.Y., of the operating rights in Certificate No. MC-79862 issued January 7, 1954, to Lewis D. Pettis and Floyd E. Woodruff, doing business as F. D. Pettis Trucking Co., Binghamton, N.Y., authorizing the transportation of household goods between Binghamton, N.Y., on the one hand, and, on the other, points in New York, Pennsylvania, New Jersey, Delaware, Massachusetts, and Connecticut. Robert B. Thomas, 43 Washington Avenue, Endicott, NY 13760, attorney for applicants.

No. MC-FC-72706. By order of March 1, 1971, the Motor Carrier Board approved the transfer to McCurdy Trucking, Inc., Latrobe, Pa., of the operating rights in Certificates Nos. MC-119118 (Sub-No. 11), MC-119118 (Sub-No. 17), MC-119118 (Sub-No. 18), MC-119118 (Sub-No. 19), MC-119118 (Sub-No. 20), MC-119118 (Sub-No. 21), MC-119118 (Sub-No. 22), MC-119118 (Sub-No. 23), MC-119118 (Sub-No. 24), respectively,

issued by the Commission July 8, 1966, December 8, 1967, July 15, 1966, December 7, 1966, August 25, 1967, September 29, 1967, January 13, 1967, March 5, 1969, July 24, 1969, and Permits Nos. MC–116564 (Sub-No. 17), MC–116564 (Sub-No. 18), MC–116564 (Sub-No. 21), respectively, issued by the Commission July 8, 1966, November 28, 1966, July 17, 1968, and December 19, 1969, respectively, to Lewis W. McCurdy, doing business as McCurdy Trucking Co., Latrobe, Pa., collectively authorizing the transportation of malt beverages and other specified commodities from, to, or between specified points in 13 specified States. Dual Operations Authorized. Frank C. Carrol, 33 West Beau Street, Washington, PA 15301, attorney for applicants.

No. MC–FC–72708. By order of March 1, 1971, the Motor Carrier Board approved the transfer to Ling Transfer, Inc., Dixon, Ill., of the operating rights in permit No. MC–123865, issued August 23, 1962, in the name of Herbert G. Ling, doing business as Ling Transfer, Dixon, Ill., authorizing the transportation of advertising circulars and printed advertising matter from Dixon, Ill., to points in Iowa, Missouri, and Wisconsin. James Conifield, 1100 Rockford Trust Building, Rockford, IL 61101, attorney for applicants.

No. MC–FC–72714. By order of March 2, 1971, the Motor Carrier Board approved the transfer to Romano's Bulk Carriers, Inc., Norristown, Pa., of the operating rights in certificate No. MC–102323 issued October 27, 1967, to Harold E. Trego, Inc., Lionville, Pa., authorizing the transportation of various commodities from specified points and areas in Pennsylvania to points in New Jersey, Delaware, and Maryland. James W. Patterson, 2107 Fidelity Building, Philadelphia, PA 19109, attorney for applicants.

No. MC–FC–72725. By order of March 2, 1971, the Motor Carrier Board approved the transfer to Tri-State Transit, Inc., Evansville, Ind., of the operating rights in certificate No. MC–134049, issued July 20, 1970, to Donald J. Exline, doing business as Corky Mills Trucking Service, Evansville, Ind., authorizing the transportation of general commodities with specified exceptions between specified points in Indiana and Kentucky. Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204, attorney for applicants.

No. MC–FC–72737. By order of March 12, 1971, the Motor Carrier Board approved the transfer to MGS Transportation, Inc., Alexandria, Ind., of the operating rights in permits Nos. MC–1328, MC–1328 (Sub-No. 5), MC–1328 (Sub-No. 6), and MC–1328 (Sub-No. 8), issued December 13, 1955, July 2, 1957, August 16, 1965, and August 16, 1965, respectively to J. J. Long, Inc., Alexandria, Ind., authorizing the transportation of various commodities from and to specified points and areas in Indiana, Kentucky, Iowa, West Virginia, Ohio, Illinois, Michigan, Tennessee, Pennsylvania, Missouri, and Wisconsin. David D. Wilson, 222 West Main Street, Hartford City, IN 47349, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–3787 Filed 3–17–71;8:50 am]

CUMULATIVE LISTS OF PARTS AFFECTED—MARCH

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 March.

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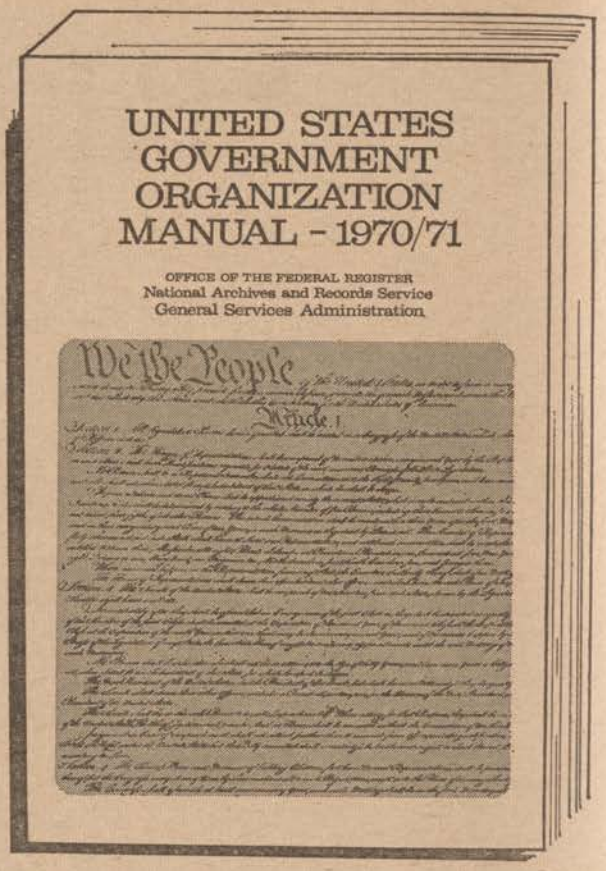

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